


CAI  
Z 3  
-68L163









Digitized by the Internet Archive  
in 2023 with funding from  
University of Toronto



CAI Z3  
-68L16B

## **TASK FORCE ON LABOUR RELATIONS**

(under the Privy Council Office)

### **STUDY NO. 2**

## **PROFESSIONAL WORKERS AND COLLECTIVE BARGAINING**

An analysis of the problems which professional workers and their employers face when they adopt a collective bargaining relationship

BY

**SHIRLEY B. GOLDENBERG M.A.**

Department of Economics and Political Science  
McGILL UNIVERSITY

OTTAWA

DECEMBER 1968

© Crown Copyrights reserved

Available by mail from the Queen's Printer, Ottawa  
and at the following Canadian Government bookshops

HALIFAX

*1735 Barrington Street*

MONTREAL

*Æterna-Vie Building, 1182 St. Catherine St. West*

OTTAWA

*Daly Building, Corner Mackenzie and Rideau*

TORONTO

*221 Yonge Street*

WINNIPEG

*Mall Center Bldg., 499 Portage Avenue*

VANCOUVER

*657 Granville Street*

or through your bookseller

Price: \$ 2.50

Catalogue No. CP32-6/1967-2

*Price subject to change without notice*

Queen's Printer for Canada  
Ottawa, 1970

STUDIES  
OF THE  
TASK FORCE ON LABOUR RELATIONS

Study No.

- 1 Broadcasting - An Industry Study by Ruby S. Samlalsingh, M.A.
- 2 Professional Workers and Collective Bargaining by Shirley B. Goldenberg, M.A.

Other studies in process and to appear soon:

Labour Disputes in Essential Industries by Harry W. Arthurs, LL.B.  
(Toronto), LL.M. (Harvard)

Labour Arbitration and Industrial Change by Paul C. Weiler, LL.B.  
(Osgoode), LL.M. (Harvard)

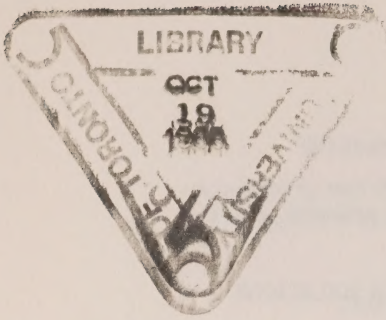
Adaptation and Innovations in Wage Payment Systems in Canada by  
Professor Jack Chernick (Rutgers)

Compulsory Arbitration in Australia by Professor J. E. Isaac  
(Monash)

Syndicalisme, consommation et société de consommation par le  
Professeur Bernard Solasse (Laval)

Trends in Industrial Relations Systems of Continental Europe by  
Paul Malles (Economic Council of Canada)





The studies of the Task Force on Labour Relations represent some of the research carried out under contract. The Task Force members do not necessarily agree with the observations and opinions expressed in these studies.

## FOREWORD

While the issue of collective bargaining has provoked considerable interest in the professional segment of the labour force, attitudes and experience have varied both between and within professional groups and in different parts of the country. This study attempts to identify the major problems faced by professional workers and their employers in adopting a collective bargaining relationship, to analyse the alternative mechanisms that have been evolved in response to these problems, and to indicate to those responsible for the formulation of public policy some of the consequences of the alternative options. The research on which the study is based was carried out between May 1967 and September 1968. The report was submitted to the Task Force on Labour Relations in December 1968.

Although I tried to abstract the problems inherent in the bargaining relationship from as wide a range of experience as possible, limitations of time and resources precluded an exhaustive treatment of the subject. I made no attempt, for example, to construct a picture of the extent of collective bargaining in the professional sector or to indicate statistical trends. I felt that such an attempt would be unrealistic in view of the limited documentation available. Moreover, my terms of reference clearly indicated a problem-oriented study.

As the Task Force that commissioned this project was concerned primarily with policy recommendations, it seemed more relevant to its purpose to identify and analyse the problems arising from the experience of some typical professional groups than to conduct a statistical survey of collective bargaining practice. It is to be hoped that future research will fill in some of the more glaring gaps in documentation.

I undertook field research on particular professional groups, engineers, professionals in the Civil Service, university professors, and took a brief look at some of the experience in the nursing and medical professions. A separate Task Force study on Teachers by J.D. Muir provided interesting material to supplement my own research findings. While I did draw on some other published material, I found the literature in this area to be extremely limited.

This project required the cooperation of a number of persons and groups. Miss Donna Doyle did a conscientious job as Research Assistant and was responsible for collecting and organizing much of the factual material on which the analysis was based. Representatives of professional groups, employers, trade unionists, members of boards, government officials and others concerned with the controversial issue of collective bargaining for professional employees were generous in their cooperation. Their help is gratefully acknowledged.

SHIRLEY B. GOLDENBERG



## TABLE OF CONTENTS

	<u>Page</u>
FOREWORD	v
CHAPTER I PROBLEM AND METHOD	1
The Problem of Identifying the Professional Workers Engaged in Collective Bargaining A Bias in the Terms of Reference Research Method for a Problem-Oriented Study The Special Case of Quebec: Another Source of Bias The Scope of the Study References	
CHAPTER II COLLECTIVE BARGAINING FOR PROFESSIONAL WORKERS: A CONTROVERSIAL ISSUE	14
The Growth of the Professional Category in the Occupational Structure Employment Status of Professional Personnel Conflicting Views on Collective Bargaining Accommodating Conflicting Pressures References	
CHAPTER III THE LEGAL STATUS OF COLLECTIVE BARGAINING FOR PROFESSIONAL WORKERS	33
Labour Relations Legislation The Pressure for Change: Three Alternatives Civil Service Legislation Professional Negotiations not Covered by Law: The Doctors' Dilemma References	

	<u>Page</u>
CHAPTER IV	
ESTABLISHING A BARGAINING RELATIONSHIP: BASIC PROBLEMS AND ALTERNATIVE MECHANISMS	54
The Bargaining Unit	
Eligibility for the Bargaining Unit:	
Employment Status	
Eligibility for the Bargaining Unit:	
Professional Status	
The Area of the Bargaining Unit	
Parties to the Bargaining Relationship	
The Bargaining Agent for Professional Workers	
The Role of the Employer: External Influences	
References	
CHAPTER V	
PROFESSIONAL BARGAINING IN PRACTICE: ISSUES AND METHODS	84
Professional Issues	
Professional Prerogatives vs Management Rights	
Individual Recognition in Collective Agreements	
Dispute Settlement	
The Public Interest Factor	
Government Intervention	
References	
CHAPTER VI	
PUBLIC POLICY CONSIDERATIONS	95
Collective Bargaining and Professional Ethics	
Dispute Settlement	
The Bargaining Agent	
Determining the Appropriate Bargaining Unit	
The Legal Framework of Collective Bargaining for Professional Employees	
Negotiations by Non-salaried Professional Workers	
References	
BIBLIOGRAPHY	105
APPENDIX A - THE CASE OF THE ENGINEERS	111
APPENDIX B - RESUME EN FRANCAIS	285

## CHAPTER I

### PROBLEM AND METHOD

Although it has long been an accepted practice for professionals to engage in some form of collective economic action, such as fee-setting, there has been considerable resistance, both by professionals, by their employers, and in the public mind, to the idea of collective bargaining as the term is generally understood. 1/ In addition to the resistance of these interested parties, moreover, collective bargaining by professional workers has frequently been inhibited by provisions of the law. Thus, before turning to the problems inherent in the bargaining relationship itself, I shall deal briefly with the traditional social-psychological barriers to this type of collective action for professional workers, with recent socio-economic pressures that have been breaking some of these barriers down, and with the legal framework for collective bargaining both at the federal level and in the separate provincial jurisdictions. First, however, I would like to point out some of the problems that were encountered in planning this study and in establishing the research method.

#### The Problem of Identifying the Professional Workers Engaged in Collective Bargaining

A paucity of reliable documentation complicated the task of identifying the professional workers who are presently engaged in collective bargaining. The following difficulties were encountered:

1. Apart from Quebec, few professionals are actually affiliated with trade unions—and even when they are, they are frequently "lost", for statistical purposes, in bargaining units of non-professional employees. 2/



2. The fact that so many of the formal professions are specifically excluded from labour legislation in all jurisdictions but Quebec and Saskatchewan makes it impossible to find statistics on professional bargaining in the records of most departments of labour or labour relations boards. 3/ While some professional groups have achieved voluntary recognition from their employers and bargain collectively in the absence of legislation (e.g., teachers and some engineers in Ontario), there is no central source of information about them as there would be if they were certified under the Labour Relations Act. Even in Quebec, where the Labour Code grants professional bargaining rights, some of the most significant bargaining units (e.g., the professional engineers at Hydro-Quebec and the City of Montreal) have been established outside the Code. 4/ While the above mentioned groups are sufficiently large and militant to be identifiable without official certification, certain smaller ones could undoubtedly escape the notice of the researcher.
3. Where the initiative to bargain collectively has been taken by the professional association itself, as in the case of teachers and nurses, statistical information is readily available. Where, on the other hand, a professional association is actually opposed to collective bargaining by its employee members, it may be less inclined to supply information—even if it had it—on voluntary collective bargaining arrangements.

#### A Bias in the Terms of Reference

While there is insufficient documentation to construct a numerically accurate picture, however, it is not impossible to make some general statistical observations.

The research indicates, for example, that a relatively small proportion of the professional labour force in Canada is presently covered by collective agreements. It is clear also that the propensity to bargain collectively varies both between and within professional groups. Two examples may be cited to illustrate the latter point.

The case study of engineers showed that formal collective bargaining for these professionals is virtually limited to Quebec and Ontario; it affects less than half the engineers in the former case and barely one tenth in the latter. Canadian public school teachers, on the other hand, are almost all covered by collective agreements. The teachers in Newfoundland and Prince Edward Island are the only exceptions.

However, while the engineers and teachers represent opposite extremes of experience for those professionals who bargain collectively (nurses, civil servants, etc., would fall between them on a continuum), it is evident that many professional groups do not bargain at all. Thus, some readers may find that the emphasis on collective bargaining in this study is disproportionate to its actual (and potential) incidence, at least for certain professions. This is a bias of which I am aware, but, I submit, it is inherent in my terms of reference. The focus of the research is clearly defined by these terms of reference which require an analysis of

the problems which professional workers and their employers face when they adopt a collective bargaining relationship.

### Research Method for a Problem-Oriented Study

The broad scope but rather nebulous nature of a problem-oriented study and the uneven distribution of collective bargaining practice by professionals in Canada combined to preclude a scientific research methodology. Thus, there was no attempt to develop a scientific sample. I felt that I could gain most insight by simply going "where the action was"; where professional workers had already adopted a collective bargaining relationship or where there was some indication that an interest in collective action existed. And so I considered the problems of engineers, professionals in the Civil Service, university professors, doctors, teachers, and nurses in various parts of the country.

Basing the analysis on the experience of these selected professional groups, the legislation to which they are subject, the resistance they have encountered, the collective bargaining mechanisms they have evolved, I have tried to identify some of the problems which apply most generally to collective bargaining for professional workers as a whole. In analyzing these problems, I have preferred to focus on relationships and processes rather than on the details of particular negotiations or on the internal structure of particular groups. 5/ In assessing alternative mechanisms of collective action, I have given due consideration to the high level of public interest in professional services and to the views expressed by all parties to the bargaining relationship, the main professional and labour groups concerned and representatives of employers and governments with whom they deal. The final assessment of the problems and the recommendations for their solution will, of course, rest with the distinguished members of the Task Force on Labour Relations.



### The Special Case of Quebec: Another Source of Bias

Some readers may object that the analysis leans too heavily on Quebec examples. I am aware of this bias but could hardly avoid it in view of the extent and variety of the collective bargaining experience by professional workers in this province compared with their counterparts in other parts of the country. The engineers are a case in point. The research showed that formal trade union affiliation—and the use of the strike—by Canadian engineers has been virtually limited to Quebec; even in this province the practice has been confined to French-Canadian engineers, working in the public sector (City of Montreal, Hydro-Quebec, Government of Quebec). Moreover it is unlikely that this happened by chance. The study of engineers suggested that a combination of socio-cultural and political factors peculiar to Quebec in the early sixties was responsible for the unique success of professional unionism in this province.

The Political Context—It is clear, for example, that the political climate of the "Quiet Revolution" in Quebec was favourable to the development of professional unionism, particularly in the public sector. The Labour Code (1964) that extended the right of association—and the right to strike—to all professional groups reflected the favourable attitude of the Lesage government to liberalized labour legislation in general and to professional unionism in particular.

Personal factors also seem to have played a major role in the developments of this period. The participation of French-Canadian intellectuals from the universities, the mass media, and the Catholic labour movement, as well as those in active politics in events leading up to the

"Quiet Revolution", forged links of comradeship that persisted after the Liberal victory in 1960 and help to explain at least some of the events in the years that followed. In considering the successful organization of the engineering syndicates, for example, it is important to remember that René Lévesque, the Minister of Natural Resources, responsible for Hydro at the time the engineers organized, had been involved (on the employee side) in the famous strike of French Producers at the Canadian Broadcasting Corporation (CBC) (1958-59). This strike has been considered by many as the spark-plug of the "Quiet Revolution"; it is generally agreed, moreover, that it was the most important milestone on the road to professional unionism in Quebec. René Lévesque emerged from the Producers' strike strongly committed to French-Canadian nationalism, to political activism, and to the cause of professional unionism. He also felt a bond of friendship with the leaders of the Confederation of National Trade Unions (CNTU) who had supported and advised the striking producers and were now organizing the professional workers in Quebec, particularly the engineers.

Socio-Cultural Factors—While a favourable political climate may have facilitated the development of professional syndicalism in the public sector, however, it is clear that the ultimate decision on collective action would depend on the professionals themselves. In the case of the engineers it was found that the propensity to organize and bargain collectively—and particularly the willingness to strike—distinguished the French-Canadian group from most of their English-language confrères, both in Quebec and in the rest of Canada. Some of these differences have been attributed to socio-cultural factors.

and resources permitted and on a broad definition of the professional category.

"Professional Workers": An Operational Definition—With new categories of trained people recently claiming professional status (nurses, teachers, social workers, economists, etc.,) the rigid exclusiveness of the more traditional professional occupations (medicine, dentistry, law, etc., the "ideal type" professionals by sociological definition) 6/ has given way to a broader notion of the professions, both in the popular mind and in some cases, notably in Quebec and most recently in the Federal Public Service, in the reality of the law. 7/ For the purposes of this study, a broad definition of "the professional worker" will be based on criteria of educational standards and group organization in the following combinations:

1. Academic Specialization and Formal Organization.

Some professions, particularly the older ones, combine a high level of specialized academic training with organization into exclusive professional associations. By virtue of their licensing and disciplinary powers, granted by provincial legislation, such professional associations, in effect, constitute "closed shops". Doctors, dentists, lawyers, notaries (in Quebec), engineers, etc., belong in this category.

2. A Formal Professional Organization and Specialized Training but not Necessarily a University Degree.

Others are identifiable as separate groups, but without the exclusiveness or rigid academic requirements of the traditional professions. Their members require some specialized competence and training, but this may or may not include a university degree and membership in the governing body is not always a condition for the practice of the profession. Teachers and nurses, having fulfilled their respective licensing qualifications 8/ will be considered as professionals by this definition and are, in fact, already treated as professionals in much of the legislation governing their employment relationships.



The point has been made, for instance, that French-Canadian engineers, having less personal mobility than most English-language members of the profession, may compensate by adopting collective action to improve conditions in their present jobs. Moreover, because of their intellectual orientation toward France and Europe, where the concept of professional and "cadres" unionism is firmly entrenched, they do not seem to have the same psychological resistance to union activity as their English-language counterparts. Finally, they have been encouraged by the availability, for this purpose, of a particular type of trade union organization, the CNTU, with an almost exclusively French-Canadian membership and a preponderance of intellectuals in its higher ranks.

The Problem of Generalizing from the Quebec Experience—It is clear from the foregoing that caution should be exercised in generalizing from the Quebec experience. However, although the propensity to collective action by some professional groups in this province has been related to political and socio-cultural peculiarities, I feel that the problems that they have encountered in the course of this action have considerably wider application. If we can distinguish the broad issues that override the peculiarities of the Quebec milieu, the experience with collective bargaining by professionals in this province should provide us with a number of valuable insights.

#### The Scope of the Study

Because I have been concerned with a fluid situation and with anticipated as well as current problems facing the formulators of public policy, the analysis has been based on as wide a range of experience as my time

### 3. Academic Specialization Without Corporate Organization.

With the proliferation of the social and physical sciences in recent years, a third category of professional personnel has emerged. This category covers all university graduates with specialized degrees who do not fit into either of the classifications defined above. In this way, we avoid excluding from the status of professional those persons who do not hold a licence or who practise in a profession or type of work for which no licensing body exists. By this definition, we may consider as professionals librarians, social workers, dietitians, etc., as well as any person with a minimum of a B.A. degree in some area of academic specialization. This covers a wide range of occupations such as economists, sociologists, psychologists, physicists, chemists, statisticians, many of which are represented in the "multi-professional" civil service unions to which I shall have occasion to refer.

I shall not be referring to all these professional types in the course of the analysis. My resources have not permitted such an extensive survey. Nor does the study require it. A flexible definition of the professional category was considered essential, however, in view of the rapidly evolving occupational structure and in anticipation of any legislative changes that may be considered with reference to professional workers. 9/

Related Occupational Types—The list could be extended even further. The International Labour Organization (ILO) concept of "professional" for example, covers a wide range of "intellectual workers" and includes journalists, actors, musicians, and other members of the performing arts in this category. In the context of contemporary Canadian industrial relations, however, these occupations seem to be set apart from the "professions" defined above. They differ, for the time being at least, in being highly organized by the trade union movement and in not being excluded from the provisions of labour relations laws. However, they share some of the peculiar problems of professional employees, particularly those problems related to professional prerogatives. To the

extent that some of these other "intellectual workers", radio and television actors and artists, for example, may have succeeded in protecting individual initiative and the recognition of creative achievement within a basic collective agreement, their experience is relevant to this study. Thus I shall have occasion to refer to this group when we reach the analysis of professional issues. 10/



### REFERENCES

- 1/ Collective bargaining by definition, would involve a group of employed professionals negotiating with their employer—through a designated bargaining agent—with a view to concluding a written collective agreement containing provisions regarding rates of pay, hours of work, and other conditions of employment.  
  
Fee-setting, on the other hand, is carried out by a professional association—generally the licensing body—and applies only to private practitioners of the profession—acting as individuals. The professional association as such has no power to impose its fee schedule on the employers of its employee members, unless the employers themselves are members of the said professional association. See legal opinion on this point by P.M. Laing, Q.C. to the Corporation des Ingénieurs du Québec, March 28, 1967. Quoted in The Case of the Engineers, appended to this study, p. 156.
- 2/ While the CNTU has organized separate unions of professional workers, such as engineers, nurses, technical school teachers, etc, this is an exception in Canadian experience. See section on the Bargaining Agent, pp. 98-100.
- 3/ For a discussion of professional exclusions, see Chapter III, The Legal Status of Collective Bargaining for Professional Workers, pp. 33-34.
- 4/ See section on the Bargaining Unit, p. 60.
- 5/ See The Case of the Engineers, appended to this study, as an example of the detailed material on which the present analysis is based.
- 6/ The traditional profession, as an "ideal type", is characterized by: A lengthy period of university training, an advanced level of academic specialization, a body of specialized literature, a commitment to "service" and "professional ethics", a high level of "professional autonomy", a law governing the practice of the profession and administered by a formal professional association.
- 7/ In Quebec there are 16 "closed corporations" of professionals incorporated under the Professional Syndicates Act. These include not only the old "liberal" professions like doctors, lawyers, notaries, etc., but a number of relatively "new" ones like accountants, "agronomists", and forestry engineers. Teachers and nurses also have corporate status as professional groups while the Civil Service Act (1965) recognized sociologists, economists, biologists, etc., as "professionals" for collective bargaining purposes.

Note also the wide range of "professional" classifications in the new Federal Public Service Staff Relations Act. These are listed in the "Scientific and Professional" Category under the following group headings: Actuarial Science, Agriculture, Architecture and Town Planning, Auditing, Biological Sciences, Chemistry, Dentistry, Economics, Sociology and Statistics, Education, Engineering and Land Surveying, Forestry, Historical Research, Home Economics, Law, Library Science, Mathematics, Medicine, Meteorology, Nursing, Occupational and Physical Therapy, Pharmacy, Physical Sciences, Psychology, Scientific Regulation, Scientific Research, Social Work, University Teaching, Veterinary Science. Canada Gazette, (Part 1) Ottawa: March 25, 1967, pp. 894-912.

8/ A study of public school teachers (J.D. Muir, Collective Bargaining by Canadian Public School Teachers, a Task Force Study) shows that a considerable number in this group, particularly in rural areas, are practising without the minimum academic requirements for a regular teaching certificate. While it is generally recognized that this is a deplorable situation, to be remedied as soon as qualified replacements become available, no definition of "professional", however flexible, should include these unqualified personnel.

9/ It is interesting to note that the Taft-Hartley Act (USA 1947) provides an open-ended definition of professional employee that would cover all the above categories:

Section 2 (12) - Definition of Professional Employee.

"The term 'professional employee' means —

"(a) any employee engaged in work (i) predominantly intellectual and varied in character as opposed to routine mental, manual, mechanical, or physical work; (ii) involving the consistent exercise of discretion and judgment in its performance; (iii) of such a character that the output produced or the result accomplished cannot be standardized in relation to a given period of time; (iv) requiring knowledge of an advanced type of a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study in an institution of higher learning or a hospital, as distinguished from a general academic education or from an apprenticeship or from training in the performance of routine mental, manual, or physical processes; or

"(b) any employee who (i) has completed the courses of specialized intellectual instruction and study described in clause (iv) of paragraph (a), and (ii) is performing related work under the supervision of a professional person to qualify himself to become a professional employee as defined in paragraph (a)."

## CHAPTER II

### COLLECTIVE BARGAINING FOR PROFESSIONAL WORKERS: A CONTROVERSIAL ISSUE

The problem of reconciling professional interests with the demands of employment in large scale organizations, and the corollary issue of collective bargaining, are of considerable current interest. This interest has been stimulated in recent years by the rapid growth of the professional segment, both in absolute numbers and relative to the total labour force, and by the high proportion of these professionally trained personnel who now work as salaried employees.

#### The Growth of the Professional Category in the Occupational Structure

Comparative census data illustrate the growing significance of the professional classifications in the occupational structure. Although the increase in white collar workers relative to the total labour force (15.2% of the total labour force in 1901, 24.4% in 1931, 38.6% in 1961) was the most striking aspect of the overall occupational shift in the first sixty years of this century 1/, the most notable recent change has been the growth of the professional group within this white collar segment. Since it is probable that the postwar years are of more relevance to an understanding of the present situation and potential future change than are periods in the more distant past, the relative increase in the professional category between 1951 and 1961 assumes particular significance. In this period, professionals showed the largest percentage increase of any occupational classification, rising in absolute numbers from 385,696 to 634,284, a gain of 64.5%, compared with a 44.7% increase in the total white collar



A similar definition is proposed by a group of Ontario professionals in the Draft Professional Negotiations Act (1965). This Draft Act will be discussed in Chapter III.

10/

The CBC French Producers have already been mentioned for the impact of their strike on the political climate in which professional unionism developed in Quebec, p. 6. Also see section on the Bargaining Unit, Chapter IV, for a discussion of "cadres" or supervisory unionism for which the French Producers set the pattern.

segment and an increase of only 21.6% in all occupational categories (Table 1).

#### Employment Status of Professional Personnel

Despite the image of individualism traditionally associated with professional practice, the census lists almost 100% of teachers and nurses as paid employees 2/, while a recent study of the employment status of professional male workers in Canada 3/ found that 95% of engineers, 93% of economists, 85% of accountants and auditors, 62% of architects were in this category. Even in the most traditionally individualistic professions, such as law, medicine and dentistry, where 69%, 64% and 91% respectively are presently self-employed, the introduction of new social security measures, such as compulsory legal aid or medicare, may be expected to produce certain anomalies in their employment status. In Quebec, for example, with a public medicare plan for indigent patients, independent practising physicians already find themselves, in effect, in an employment relationship with the provincial government for this aspect of their professional practice.

#### Conflicting Views on Collective Bargaining

Proponents of collective action view the large numbers of professionally trained people who are currently employed in business, industry and government service, schools, hospitals and other institutions, as a potential pool to be organized for collective bargaining purposes. Many of these employed professionals—teachers, nurses, engineers, professional civil servants, doctors—do in fact already engage in some kind of collective action, although, as the case studies show, the form of this action covers a wide range, all the way from informal consultation or "communications groups"

TABLE 1

DISTRIBUTION OF THE LABOUR FORCE <sup>1/</sup> BY OCCUPATION  
GROUP AND SELECTED OCCUPATIONS, CANADA <sup>2/</sup>  
1931, 1941, 1951 and 1961.

Occupations	Numbers				Percentage Increase	
	1931	1941	1951	1961	1931-1961	1951-1961
<b>MAJOR OCCUPATIONAL GROUPS</b>						
All Occupations	3,921,833	4,195,951	5,214,933	6,342,289	61.7	21.6
White Collar	958,184	1,058,696	1,690,626	2,446,902	155.4	44.7
Manual	1,323,381	1,401,511	1,963,478	2,313,298	67.2	12.7
Service	363,790	439,714	446,040	683,933	88.0	53.2
Primary	1,274,824	1,284,617	1,050,091	830,180	-34.9	-20.9
<b>WHITE COLLAR CLASSIFICATIONS</b>						
Total White Collar	958,184	1,058,696	1,690,626	2,446,902	155.4	44.7
Managerial	219,753	225,551	392,896	501,077	128.0	27.5
Clerical	260,674	303,655	563,083	818,912	214.2	45.4
Commercial & Financial	239,680	247,248	348,971	492,629	105.5	41.2
Professional	238,077	282,242	385,676	634,284	166.4	64.5

<sup>1/</sup> 14 years of age and over for 1931, 1941, 1951.  
15 years of age and over, 1961.

<sup>2/</sup> Not including Yukon and Northwest Territories, including Newfoundland in 1951 and 1961.



TABLE 1 (Cont'd)

Occupations	Numbers				Percentage Increase	
	1931	1941	1951	1961	1931-1961	1951-1961
SELECTED PROFESSIONAL OCCUPATIONS						
Total Professional	238,077	282,242	385,676	634,284	166.4	64.5
Architects	1,298	1,202	1,740	2,940	126.5	69.0
Authors, Editors & Journalists	3,344	4,147	7,217	13,042	289.5	80.5
Engineers:	NA	NA	2,572	2,995	-	16.4
Chemical	NA	NA	7,743	11,877	-	53.4
Civil	3,937	4,567	6,349	8,758	122.5	37.9
Electrical & Mechanical	2,859	4,518	8,328	12,091	322.9	45.2
Industrial	544	478	597	831	52.8	39.2
Judges & Magistrates	8,058	7,920	9,038	12,068	49.8	33.5
Lawyers & Notaries	1,009	1,556	2,061	3,435	240.4	66.7
Librarians	20,462	26,626	35,138	61,553	200.8	75.2
Nurses-Graduate	11,436	11,883	15,623	22,993	101.1	47.2
Nurses-Training	10,020	10,723	14,325	21,266	112.2	48.5
Physicians & Surgeons	3,200	4,135	5,422	11,145	248.3	105.6
Professors & College Principals	NA	NA	NA	2,909	-	-
Actuaries & Statisticians	82,983	86,453	105,118	167,694	102.1	59.5
School Teachers						

TABLE 1 (Cont'd)

NOTES:

NA - Not Available.  
The "gainfully occupied", rather than the "labour force" concept was used prior to 1951 for determining the labour force status. See introduction to Occupation and Industry Trends in Canada, D.B.S. 1954.

Occupations for 1931, 1941 and 1961 were re-arranged on the basis of the 1951 classification, though some adjustment of 1951 classifications was necessary.

**SOURCE:** Department of Labour, Canada, Report No. 11, Occupational Trends in Canada 1931 to 1961 (September 1963), Table 4, pp. 40-44, based on Dominion Bureau of Statistics, SP-8, Occupation and Industry Trends in Canada, 1954, and 1961 Census of Canada: Bulletin 3. 1-3, Labour Force Occupations by Sex, 1963.

to full collective bargaining as the term is generally understood. But although the propensity to bargain collectively varies both between and within the professional groups, more and more professionals are facing the emotionally charged problem of reconciling their traditional self-images with the reality of their status as salaried employees.

Social-Psychological Barriers to Collective Bargaining— Although the professional category is by no means a monolithic entity and is characterized by major differences in academic specialization, group organization and employment status, a general conception of "professionalism" seems to exist and this is based on the following minimum attributes: superior training of a specialized nature, professional autonomy, and a code of professional ethics. These combine to produce the image of superior social status and obligation of public service which, whether myth or reality in their application to different professional types, has been a major barrier to the adoption of collective bargaining.

The opposition to collective bargaining has been argued mainly in terms of status, professional ethics and public service, and the protection of the individualism traditionally associated with professional practice. For members of the established professions such as law, medicine and engineering, whose career aspirations and social identification have been traditionally management-oriented, and for others who regard new professional roles as a vehicle of upward mobility and social acceptance, the adoption of practices generally associated with blue collar workers often seems incompatible with professional status. A professional engineer was expressing a widely held view when he said "I didn't go to college to become a trade unionist." Proponents of this view, moreover, point out



TABLE 2

EMPLOYMENT AND INCOME OF PROFESSIONAL MALE WORKERS - DISTRIBUTION BETWEEN  
SELF-EMPLOYMENT AND PAID EMPLOYMENT, AND DIFFERENCES IN INCOME  
CANADA 1961

	Total 1/		Paid (W & S) Employees		Self Employed		Average Income From Employment	
	Number	%	Number	%	Number	%	All 2/	Self- Employed
Accountants & Auditors	29,121		24,918	85.6	4,196	14.4	7,324	11,469
Actuaries & Statisticians	2,479		2,460	99.2	19	0.8	6,893	NA
Architects	2,874		1,809	62.9	1,063	37.0	9,389	12,997
Dentists	5,234		484	9.2	4,749	90.7	13,409	13,848
Economists	2,026		1,901	93.8	123	6.1	7,760	NA
Lawyers & Notaries	11,777		3,663	31.1	8,111	68.9	12,429	13,941
Physical Scientists	10,471		10,182	97.2	287	2.7	7,690	11,852
Physicians & Surgeons	19,835		7,284	36.7	12,549	63.3	15,822	18,812
Professional Egrs.	42,950		41,193	95.9	1,748	4.1	7,974	12,930
Civil Engineers	11,917		11,126	93.4	788	6.6	7,981	14,073
Professors & Colle ge Principals	8,779		8,708	99.2	19	0.2	9,247	NA

1/ The difference between the total in each profession and the sum of "paid employees" and "self-employed" is "unpaid family workers".

2/ Average incomes from employment of all workers in each occupation shown, including the self-employed.

SOURCE: Peitchinis, *loc. cit.* based on Census of Canada, 1961, Bulletin 4. 1-2, Table B4 for income, and Census of Canada, 1961, Bulletin 3. 1-14, Table 20 for class of worker.

They do not feel that they are treated as individuals so they don't react as individuals and they are beginning to think in terms of collective action. 5/

C. Decline in Personal Mobility: Loss of a Bargaining Weapon—The argument for collective action has been reinforced by the additional point that personal mobility, traditionally the ultimate bargaining weapon of professional workers, has been declining in certain professional groups. Proponents of collective action insist that this is making it increasingly difficult for members of these groups to improve their objective conditions, particularly financial ones, on their own initiative. A number of examples were put forward to illustrate this point.

In the case of the engineers, for example, I was told that job mobility within the profession is becoming increasingly difficult as a means of improving income. For one thing, it was noted that the modern trend toward professional specialization can result in the phenomenon of "trained incapacity", effectively precluding professional mobility and freezing the individual in his job. To illustrate:

The experience gained in telephone engineering is not readily marketable, so that an engineer with many years' service becomes a 'captive' employee. In addition, the 'hands off' policy followed by telephone companies prevents free movement within the telephone industry. 6/

I was also told that the similarity in salary scales between companies reduces the chance that a change in jobs would improve an engineer's financial status. If this is the case, the advocates of collective bargaining ask, why not exert a collective effort to improve the present job?

This reasoning would apply equally in the case of teachers and nurses. Increased government participation in the financing of educational and

that collective bargaining—and the ultimate sanctions that this may imply—would also be irreconcilable with a public image based on ethical standards and the obligation of community service.

Finally, it may be noted that the high component of public interest in teaching, health and other professional services, the emotional reaction to the potential withdrawal of such services, and the resistance by employers to practices which would disrupt traditional administrative structures 4/, combine to reinforce the social-psychological pressures within the professional group.

Countervailing Pressures: The Case for Collective Action—Proponents of collective bargaining, on the other hand, maintain that changing social and economic conditions have overtaken and invalidated many of the traditional ideals and images.

A. Impersonal Work Relationships—Pointing, for example, to the growing concentration of professional employees in large-scale bureaucratically organized enterprises, they insist that it is not collective bargaining, per se, but the impersonal employment relationships in these enterprises that are eroding individual initiative and undermining personal dignity and professional status.

B. Blocked Channels of Communication—Furthermore, they note, while the conditions of employment in large-scale enterprise suppress the individual initiative that is the hallmark of private professional practice, complex channels of communication—also a function of size—compound the problem by making face-to-face negotiations increasingly rare. The case for collective action in these circumstances has been summarized as follows:



TABLE 2

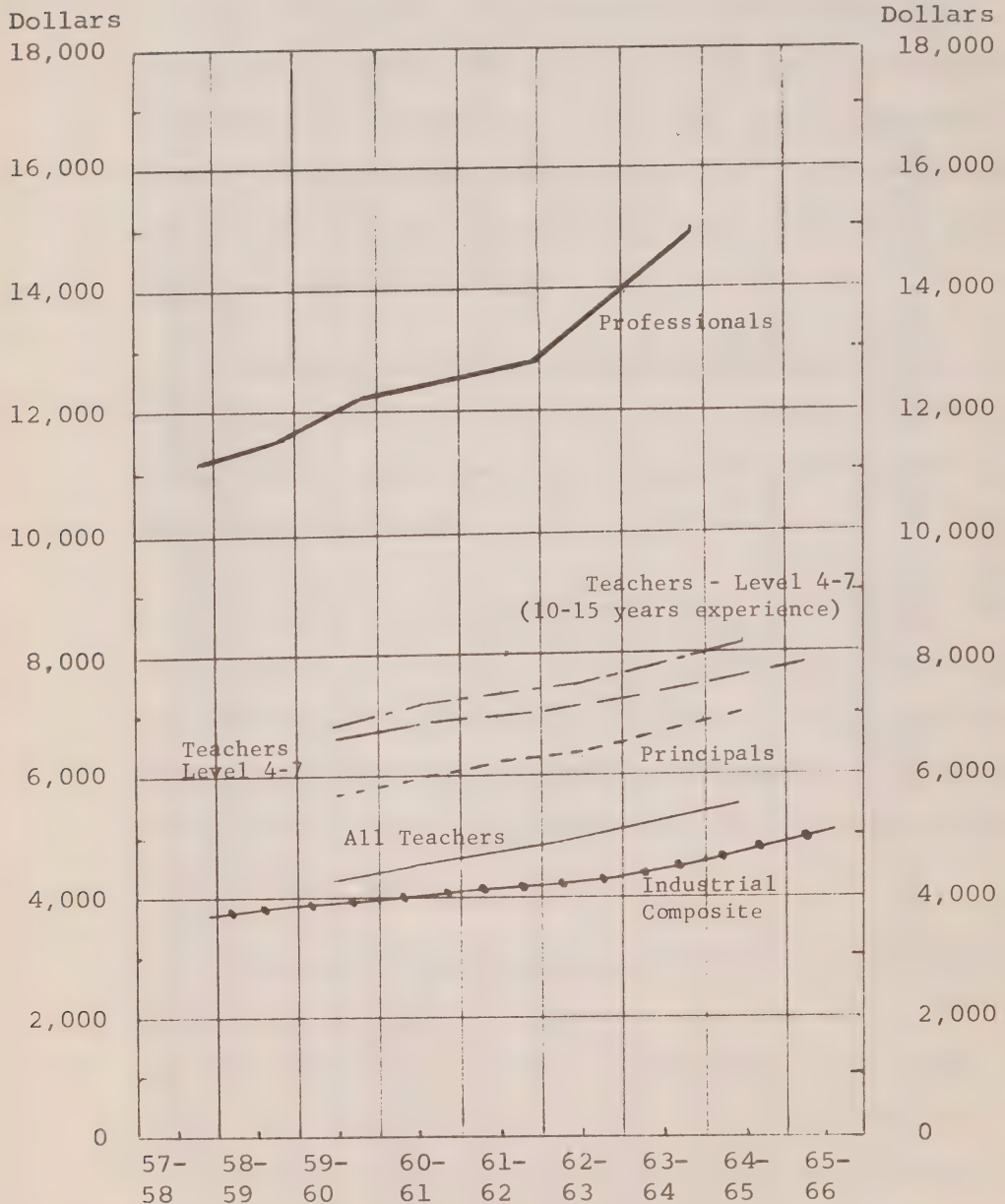
COMPARISON OF SALARIES OF VARIOUS GROUPS OF TEACHERS TO AVERAGE  
PROFESSIONAL SALARIES AND TO AVERAGE INDUSTRIAL WAGES AND SALARIES  
CANADA (EXCLUDING QUEBEC) 1958 - 1964

	1958	1959	1960	1961	1962	1963	1964
Average Industrial Employee Earnings	3,662	3,820	3,943	4,065	4,191	4,338	4,507
Average Teachers' Salary (all levels)	3,453	3,766	4,458	4,654	4,820	4,968	5,158
Average Teachers' Salary (4-7 years university training)	-	-	6,519	6,824	6,966	7,120	7,315
Average Professional Income 1/	11,247	11,579	12,135	12,458	12,760	13,780	14,824
Average Salary of Teachers with Degrees as a per cent of Average Professional Income	-	-	53.7	54.9	54.6	51.7	49.3

1/ Includes accountants, doctors, dentists, lawyers, engineers, architects, entertainers and artists.

SOURCE: J.D. Muir, Collective Bargaining by Canadian Public School Teachers, a Task Force study.  
(Muir's figures were based on: DBS, Salaries and Qualifications of Teachers in Public  
Elementary and Secondary Schools, and DBS, Review of Employment and Payrolls).

CANADA (Excluding Quebec) - COMPARISON OF SALARIES OF  
VARIOUS GROUPS OF TEACHERS TO AVERAGE PROFESSIONAL  
SALARIES AND TO AVERAGE INDUSTRIAL WAGES AND SALARIES  
1957-1958 TO 1965-1966



SOURCE: Muir, op. cit. VIII.

health services is producing a trend toward uniform salary scales within a province, reducing the chance for teachers and nurses to increase their income by moving from one school or hospital to another. Moreover the high proportion of female workers—many of them married—in these professions precludes mobility between provinces on any significant scale.

Finally, it may be noted that the problem of mobility is compounded in the case of the French-Canadian professional worker. It will be remembered that this has, in fact, been put forth as one of the significant variables explaining the propensity toward collective bargaining by French-Canadian professional workers as compared with their English-language confrères. 7/

D. The Economic Argument-- While the proponents of collective action have emphasized the frustration of employment in large scale bureaucratic organizations, and the loss of personal mobility as a potential bargaining weapon, their most potent argument is still the economic one, bolstered by the inclusion of some significant professional issues. This is interesting in view of the fact that overall professional salaries are not only at a record high but are increasing at a considerably faster rate than income in other occupational categories.

An explanation for this apparent anomaly may be found in the fact that financial advantages are unevenly distributed both between professional groups and between employed and self-employed members of the same profession. Where the comparison of income with key reference groups indicates a case of "relative deprivation", the argument for collective action is strengthened. A few figures will illustrate this point.



Looking at Table 3 8/, we can compare the salaries of various groups of teachers with average professional income and with average industrial wages and salaries. While this shows that earnings for teachers as a whole are generally higher than the industrial composite, it is clear that the income of teachers with four to seven years of university training—a professional level of education—is not only very much less than that in the overall professional category, but that it is rising at a significantly slower rate.

Turning to other comparative data, Table 2 shows that salaried professional workers earn considerably less, on the average, than self employed members of the same profession. The engineering study, in turn, showed that the highest incomes within the salaried group were for those employed in a managerial capacity. 9/

A number of variables, e.g., age, ability, initiative, could be involved in the unfavourable financial position of salaried professionals relative to self-employed members of the same profession and to those employed in managerial positions. No such explanation exists, however, when there is a discrepancy in the rate of income increase between professional and blue collar workers frequently employed in the same enterprise. Of all the unfavourable financial comparisons, this is the one most frequently cited. The demonstration effect of successful negotiated settlements for non-professional workers cannot be overestimated. 10/

Finally, there is the point that inadequate financial remuneration, particularly in an economically oriented society, is not only detrimental to the self-esteem and professional status of present incumbents, but can undermine the future of a profession itself by discouraging potential

restraints and more pressed by financial problems than the older traditional professions. In the latter, on the other hand, resistance has been considerably stronger though not always insurmountable.

Antipathy Toward Trade Unionism: A Complicating Factor— Attitudes toward trade unionism were found to be a significant variable determining the reaction of professionals to the issue of collective bargaining. Although the CNTU has successfully organized large numbers of French-speaking professional workers in Quebec, it will be seen that this is an exceptional case and that most professional groups that bargain collectively in Canada do so without affiliation with any central labour body. 13/

In spite of this, however, there is a strong tendency by many professionals to equate all collective bargaining with trade union affiliation and with unsavoury trade union practices, notably the strike weapon. It is to this concept of collective bargaining rather than to collective action per se, that much of the opposition is directed. 14/

Thus I interviewed an employer engineer who, asked for his opinion on collective bargaining, replied emphatically, "No trade unions for me!" But his next reaction illustrates how the sheer force of numbers can be a determining element in employment relationships.

When I had fifteen professional engineers as employees, I could deal with them separately. Now that I have a hundred, I hope they pick a spokesman when they want a raise in salary!

An Alternative to Countervailing Power— Some salaried professionals, such as engineers, have used "communications groups" and various forms of informal consultation to forestall the adoption of genuine collective bargaining. In those instances where formal collective bargaining has

recruits. This has been a particular complaint of teachers and nurses, whose history of contract demands is replete with odious comparisons. It brings us to the concept of collective action as a protection for professional standards.

E. Professional Issues—Advocates of collective bargaining insist that this action is vital to the protection of professional ethics and the enforcement of professional standards of performance. They point to the "professional clauses" included in their contract demands—the right of an engineer to withhold his signature from a document he does not approve, the reduction of pupil-teacher ratios, the reduction of patient loads, the recognition of professional status and the better use of supporting staff provisions for professional improvement—all designed to protect standards of performance and service which might otherwise be jeopardized in large institutions and profit-oriented enterprises. 11/

Thus the argument is made that collective bargaining is actually necessary to safeguard the values of professionalism from further erosion in the employment relationship. As the Protestant teachers of Quebec note in the formal objectives of their organization:

...It is not only professional to bargain collectively but it is unprofessional not to do so. 12/

#### Accommodating Conflicting Pressures

The inherent conflict between the professional rationale and the demands of bureaucratic organization has, as we have seen, produced strongly held and diametrically opposed points of view on the issue of collective bargaining. Some groups, like teachers and nurses, have reacted favourably to the idea, being less restricted by professional



been adopted, however, with or without trade union affiliation, it tends to conform to the common industrial relations pattern: negotiations between a recognized bargaining agent of the employees and their employer with a view to concluding a written collective agreement on wages and working conditions.

There was only one case, that of the university professors, in which I found a totally different concept of collective action as a possible alternative to the adversary relationship implicit in the industrial pattern of collective bargaining. With relatively few exceptions in the university community, the emphasis was on shared authority rather than on the use of countervailing power. For most of the faculty members I interviewed, participation in the university administration and a voice in determining the policies that condition their academic performance--including machinery for the protection of academic freedom and tenure--took precedence over the formalization of financially oriented negotiations. This preference, it is suggested, may be attributed to the particular nature of the services performed and the potential for personal mobility in university teaching circles.

Although salary negotiations between faculty representatives and administrative authorities are, in fact, carried out in all institutions of higher learning in Canada, regardless of the degree to which other aspects of university administration have been "democratized", Saskatchewan seems to be the only case where formal letters of agreement are exchanged at the conclusion of financial negotiations, thus coming nearest to the concept of a "collective agreement". In all cases, the ultimate financial decisions are made by the university administration. Faculty bargaining

power rests on the salary scales of other universities and on the potential mobility of the individual faculty member. In spite of occasional threats to the contrary, collective sanctions have never been employed to support financial demands.

While the Canadian Association of University Teachers and the majority of faculty members approached place their hopes on the democratization of university structures in preference to the use of formal countervailing power, this is not a unanimous view. Among the present proponents of a formalized adversary relationship, the most articulate is the Syndicat des Professeurs de l'Université de Montréal, formed in 1966. This group, comprising a considerable number, though far from a majority, of faculty members, is working seriously toward the establishment of a collective bargaining relationship. It is presently conducting an active organizing campaign and studying some of the technical obstacles to accreditation under the Labour Code. These obstacles will be examined in some detail in Chapter IV, under the heading of The Bargaining Unit.

Before turning to the problems involved in the adoption of formal collective bargaining by particular professional groups, however, it is important to examine the legal context within which a bargaining relationship can be established. Chapter III will be devoted to a brief survey of the legislation affecting professionals in their employment relationships. The extent to which the legal framework facilitates or inhibits the bargaining process will be more evident in the chapters that follow.

REFERENCES

- 1/ Economics and Research Branch, Canada Department of Labour, Manpower Trends in Canada (Ottawa, 1961) pp. 10, 30.
- 2/ 1961 Census of Canada: Vol. IV, Bulletin 4.1-2, Tables B4, B5. Labour Force, Occupations and Income by Sex, 1965.
- 3/ S.G. Peitchinis "Age, Employment, Income Profiles of Professional Workers in Canada". (Unpublished paper, Department of Economics, University of Western Ontario, London, Canada, March 1967), p. 16. See statistics in Table 2.
- 4/ See section on The Bargaining Unit, Chapter IV, for the problems of reconciling professional unionism with the organizational structure of North American business enterprise.
- 5/ John Crispo, speaking to a panel discussion at the annual meeting of Professional Engineers of Ontario, Ottawa, 1966. Quoted in Canadian Electronics Engineering, (April 1966), p. 31.
- 6/ Association of Engineers of the Bell Telephone Company of Canada. "Study of Remuneration of Level I and Level II Engineers in the Bell Telephone Company of Canada", (1966), p. 1.
- 7/ See p. 7.
- 8/ Based on data from J.D. Muir, Collective Bargaining by Canadian Public School Teachers, a Task Force study.
- 9/ Higher salaries in the few available administrative and managerial positions show that the "parallel path" of career advancement for professional engineers is largely a myth. Income ceilings were consistently lower for salaried engineers employed in the practice of their profession than for those who could climb the managerial ladder. Many engineers noted that the opportunity to advance in the practice of the profession is limited in Canada, particularly in Canadian subsidiaries of American companies, as so much of the original engineering work in these companies is done in the United States.



- 10/ In a perceptive article on the "Teacher's Dilemma" (Montreal Star, January 7, 1967), Stanley Cohen noted that "...they wonder why a teacher with a Master's Degree, for example, should be expected to earn less than an engineer with the same number of university credits. But in seeking improved salaries, the teachers do not cite engineers, accountants, lawyers, doctors, dentists or pharmacists. Instead they issue statements about the rate of wage increases in the construction trades."
- 11/ See Chapter V for a full discussion of professional issues.
- 12/ "Professionalism and Collective Bargaining", The Teachers' Magazine, (May 30, 1966), p. 4.
- 13/ See Section on The Bargaining Agent, Chapter IV for a discussion of trade union organization of professional workers.
- 14/ The experience of the engineers illustrates this point. While only a minority in Canada have established formal bargaining relationships, collective action by informal "negotiation" and "communications groups" has been fairly frequent. The distinction is an interesting one, as shown by the responses to a questionnaire submitted to its membership in May 1967 by the Association of Professional Engineers of Manitoba (APEM). While 73.7% of those responding felt that APEM should "actively oppose collective bargaining for professional engineers", only 22.4% felt that it should "actively oppose group negotiations for professional engineers". 62% agreed that "professional engineers should form negotiation groups", but only 7.1% felt that they should "join other groups (professional or non-professional) in collective bargaining". Only 33.7% agreed that the APEM might "tolerate collective bargaining" while 15.16% replied that it should "support collective bargaining". In contrast, 55.6% felt that APEM should "support negotiation groups".

### CHAPTER III

#### THE LEGAL STATUS OF COLLECTIVE BARGAINING FOR PROFESSIONAL WORKERS

Because of the constitutional division of powers under our federal system, there is no uniform Canadian legislation affecting collective bargaining rights for professional employees. The legal status of collective bargaining for this category of worker is determined by separate legislation in each of the provinces and at the federal level: general labour legislation, civil service acts, professional licensing acts and various other statutes which may apply to particular professional groups. In this chapter attention will be limited to those aspects of the legislation that are relevant to the problem of collective bargaining for professional workers.

#### Labour Relations Legislation

Present labour legislation contains two main impediments to collective bargaining for professional workers:

1. professional exclusions from labour legislation,
2. managerial exclusions from bargaining units.

Professional Exclusions— Saskatchewan and Quebec are the only jurisdictions in which members of all professional groups may exercise legal collective bargaining rights. In the other eight provinces and at the federal level, certain groups of professional personnel are specifically excluded from labour legislation. 1/ While the number of these excluded categories varies between jurisdictions, one may observe a fairly

consistent policy of excluding the "traditional" and "closed" professional groups. 2/ Professional exclusions may be summarized as follows:

Persons engaged in the medical, dental, architectural, engineering and legal professions are not deemed to be employees by the definitions of labour relations acts in any jurisdiction but Saskatchewan and Quebec. Neither are persons in the dietetic profession in Manitoba and New Brunswick, nurses in New Brunswick and Prince Edward Island, agrologists in Manitoba, and persons in the land surveying profession in Ontario. Teachers governed by provincial school acts are excluded from labour relations acts in British Columbia, Manitoba, New Brunswick, Ontario and Prince Edward Island, but in Manitoba and British Columbia the school acts themselves provide collective bargaining rights for the teaching profession. In some jurisdictions, statutory membership in teaching associations, as a condition of employment, gives these associations effective collective negotiation rights whether or not collective bargaining as such is written into the law. 3/

While the exclusion of a professional group from labour legislation does not necessarily preclude voluntary recognition procedures and bargaining relationships—the case of the Ontario teachers is a good example—there can be little doubt that an adverse public policy can reinforce employer resistance. 4/ Thus the continued pressure by interested groups for legal guarantees of bargaining rights by abolishing the professional exclusions. 5/

Failure to bargain collectively, on the other hand, cannot always be attributed to legal prohibitions. Just as restrictive legislation does not preclude voluntary bargaining relationships, permissive legislation does



not in itself guarantee collective action or determine the form it will take. 6/ Moreover, it is important to note that, except for the specifically excluded categories mentioned above, all other professional workers are free to avail themselves of the provisions of the labour relations acts. The fact that they have not done so in significant numbers must be explained apart from the legal context. Let us not forget the psychological resistance to collective bargaining in certain professional groups.

Management Exclusions— Even where professional workers are covered by labour legislation, certain limitations on their bargaining position are implicit in the law. Professor Cardin points out, for example, that a rigid definition of employee status under existing labour legislation fails to take account of the particular nature of professional functions and results in an unduly high proportion of management exclusions from professional bargaining units. 7/ This problem will be discussed in detail in a later section on "The Bargaining Unit" (see Chapter IV below).

Exceptional Cases: Saskatchewan and Quebec— Any discussion of the legal context of collective bargaining for professional workers must pay particular attention to Saskatchewan and Quebec, the only jurisdictions in which there are no professional exclusions from labour legislation. The Saskatchewan Trade Union Act and the Quebec Labour Code differ significantly, however, in their provisions for collective bargaining by professional workers.

A. The Case of Saskatchewan— Collective bargaining rights have been "enjoyed" by all professionals in Saskatchewan since the passage of the Trade Union Act in 1944, in the sense that this Act has no occupational exclusions. 8/ The fact, however, that the original Act made no provision

for voluntary exclusions from a bargaining unit constituted a source of active discontent to some professional groups. The engineers, in particular, claim to have been "captive" in bargaining units where closed shops exist and where, by the nature of their work, they frequently comprise a minority of employees in the group. In 1957 the Association of Professional Engineers of Saskatchewan obtained a ruling from the Labour Relations Board which excluded registered professional engineers from the bargaining unit. 2/ With this ruling as a precedent, registered professional engineers have since been effectively exempted from the operations of the Act. Considerable pressure continued to be exerted, however, for amendments to the Act itself.

After numerous representations by professional groups, particularly the Engineers' Association, and on the recommendation of a labour-management legislative review committee, the Trade Union Act was finally amended to facilitate voluntary professional exclusions. On April 7, 1966, the Saskatchewan Legislature passed Bill 79, An Act to Amend the Trade Union Act, which among other things, provided:

1. For the exclusion of members of professional associations 10/ from the bargaining unit upon application by a member of a professional association who is an employee of the employer and if the Labour Relations Board is satisfied that the majority of members of the professional association wish to be excluded. (Sec. 8A(1)), and
2. that the appropriate unit of employees for bargaining collectively, as determined by the Labour Relations Board, may be ...an employer unit, craft unit, plant unit, professional association unit, or a subdivision thereof or some other unit. (Sec. 5 (a) (amendment underlined)).

As a result of these amendments to the original Trade Union Act professional employees in Saskatchewan may now, by majority decision, join a large union, exclude themselves from it, or form their own union for collective bargaining purposes.

B. The Case of Quebec— Since the passage of the Quebec Labour Code in 1964, legislation in this province has accorded collective bargaining rights to all categories of professional workers provided, as in Saskatchewan, that they are not defined as "management" types. In contrast to the law in Saskatchewan, however, the Quebec Code limits bargaining units to members of a single professional group. Article 20 stipulates that

...Employees who are members of each of the professions contemplated in chapters 262 to 275 of the Revised Statutes, 1941, or in Act 10 George VI, chapter 47, or in the Act 11-12 Elizabeth II, together with persons admitted to the study of such profession, constitute a separate group....

The professions named in the above statutes are as follows: advocates (advocates, barristers, counsel, attorneys and solicitors), notaries, physicians and surgeons, inspectors of anatomy, homeopathic physicians, pharmacists and druggists, dental surgeons, engineers, land surveyors, architects, forestry engineers, optometrists and opticians, dispensing opticians. The "craft" provisions of the Code, it may be noted, apply by and large, to members of the "closed" professions. Some of the problems inherent in these craft provisions will be discussed in the section on The Bargaining Unit.

With the passage of the Labour Code, Quebec legislation for the first time granted collective bargaining rights to professional workers as such. And yet professional unions have frequently rejected the Code as a vehicle for collective action, preferring to rely on the Professional Syndicates Act under which many of them are incorporated. This Act is unique to the Province of Quebec, but its wide support by professional groups and its use to circumvent the management exclusions of the Labour Code justify a discussion in some detail.



The Professional Syndicates Act was passed by the Quebec Legislature in 1924. Modelled on a French law, it provides that

20 or more Canadian citizens, engaged in the same profession, the same employment, or in similar trades, or doing correlated work having for object the establishment of a determined product...may group themselves into a professional syndicate and obtain, subject to certain conditions, the authorization of incorporation from the Provincial Secretary (Article 2).

Although it was not the intention of the original legislation, this article could be interpreted to cover the professions and has been used extensively by them. Under this article, it should be noted, membership in a professional syndicate is open to all members of a professional group employed in an enterprise regardless of their position in the organizational hierarchy. In other words, the Act contains no provision for management exclusions. It goes on to say that

...professional syndicates shall have exclusively for object the study, defense and promotion of the economic, social and moral interests of their members...they may appear before the courts, acquire property...and enter into contracts or agreements with all other syndicates, societies, undertakings or persons, respecting the attainment of their objects and particularly such as relate to the collective conditions of labour.

Three or more professional syndicates may, under the Act, form a union or federation and these federations may, in turn constitute themselves into a confederation, as in the case of the CNTU. While the Act never contained a legal requirement for an employer to recognize or negotiate with a syndicate of his employees, Section III does provide for non-compulsory collective bargaining, that is, collective bargaining with the employer's consent. Moreover, it states that once an employer agrees to negotiate with a syndicate under this Act, any bargain resulting has the force of a legally binding contract. To the extent, however, that the Professional Syndicates Act provided no definition of bargaining units,

made no distinction between labour and management functions as a criterion for syndicate membership, and made no provision for compulsory bargaining rights, it could never be considered a collective bargaining act in the full sense of the term.

Technically, in fact, the Professional Syndicates Act no longer holds good for collective bargaining at all, as this now comes exclusively within the purview of the Labour Code. Article 141(g) of the Code specifically eliminated the section concerning labour agreements (Section III) from the Professional Syndicates Act. However, considerable ambiguity remains in actual practice. In a later section of this paper we shall see that many employed professionals, notably the engineers, prefer to incorporate under the Professional Syndicates Act, seek voluntary recognition by their employers, and negotiate the limits of their bargaining unit by virtue of their collective strength rather than risk the high proportion of management exclusions that could result from certification under the Code.

Impending Change: New Brunswick— With a growing interest in the subject of collective bargaining for professional employees, their position under the law has become a matter of considerable concern to the formulators of public policy. In one province at least, changes seem to be on the way. A Select Committee of the Legislature of New Brunswick (1967) has recommended that the professional exclusions of the Labour Relations Act be abolished with the exception of the clause excluding professional engineers. The Committee cited the strong objections of the Association of Professional Engineers to explain this exception. 11/ There is reason to believe that the Report of this Select Committee will be accepted in principle and that the recommendation to abolish the professional exclusions (apart from engineers) will be enacted.

Bargaining relationships have, in fact, already been established between the Government of New Brunswick and the teachers and nurses of the province, the professional groups being represented by their respective provincial Associations. This particular change, however, seems to stem less from the advice of the Select Committee than from the recommendations of a recent Royal Commission Report on Employer-Employee Relations in the Public Service. If the latter Report is adopted, teachers and nurses would be covered, along with employees in the Civil Service, by a separate Public Services Labour Relations Act. 12/

#### The Pressure for Change: Three Alternatives

Current proposals for changing the legal framework of collective bargaining for professional workers envisage three alternatives:

1. A separate bargaining act for each profession.
2. A separate act covering all professions.
3. Inclusion of professional employees in general labour legislation with appropriate revisions to the labour acts.

Separate Professional Acts—Some professional groups would like to have collective bargaining provisions written into their own professional Acts. Nurses in Ontario and engineers in British Columbia have been in the forefront of such demands. Teachers, it was noted above, already bargain under their own legislation in Manitoba and British Columbia.

The Registered Nurses' Association of Ontario is currently seeking a separate nurses' act that would grant negotiation rights with arbitration as a means of resolving disputes. In British Columbia the Association of Professional Engineers recently attempted to convert their provincial Engineers Act into a vehicle for collective bargaining purposes. In the spring of 1966, the Association, with the written support of 75% of its membership,



tried to obtain an amendment to the Engineers Act, to set up machinery providing for full collective bargaining rights for employee engineers in that province. Certification would have been by the Labour Relations Board, the bargaining agent would have been an ancillary body established by the professional association, final dispute settlement would have been by compulsory arbitration. The proposal however, died in the Private Bills Committee and the draft Bill never reached the floor of the Legislature.

The B.C. engineers had thought that it would be easier to amend their own professional act for collective bargaining purposes than to press for an all-inclusive professional negotiations act. Some students of the problem, on the other hand, have expressed serious reservations regarding separate bargaining legislation for each professional group. Professor Crispo points out, for example, that governments might be exposed to "a form of whip-sawing by the different professions as each vied for a more effective statutory position". 13/

A Professional Negotiations Act— The most active representations for all-inclusive professional negotiations legislation have taken place in Ontario. After a series of futile attempts to achieve collective bargaining rights, either by an amendment to the Professional Engineers Act or by abolishing the exclusion clauses of the Labour Relations Act, a group of Ontario professional engineers decided to press for separate legislation for professional workers. A "Steering Committee", composed originally of engineer employee groups, and since expanded to include other professional representation 14/, presented its first brief on "Negotiation Rights for Professional Staffs" to the Premier of Ontario in November 1964. A subsequent brief and a draft "Professional Negotiations Act" presented in March 1966 is still "under consideration" by the Government.

The proposed Act would cover a wide range of professional workers 15/, with the proviso that participation be on a voluntary basis. Bargaining would be carried on by professional staff associations (not unions and not affiliated with unions). There would be no requirement that a staff association represent a majority of eligible professional employees to be recognized and no compulsion for a professional worker to join as a condition of employment. Collective agreements would apply only to those members of a bargaining unit who so desired. All unresolved disputes would be submitted to binding arbitration. In an attempt to protect individual differences the proposed legislation would permit supplementary agreements to be made by individual professional employees, covering matters not referred to in the professional staff agreement or specifically reserved for individual settlement. Finally, proponents of this legislation maintain that the definition of "professional employee" under a separate professional act would avoid the high proportion of management exclusions implicit in general labour legislation. Exclusions would be confined, by and large, to professional workers who are in a position of authority with respect to other professional employees. Supervisory authority over non-professionals would not exclude a person from the bargaining unit.

General Labour Legislation—The final alternative is to expand collective bargaining rights for professional workers within the framework of general labour legislation. But this would involve more than the simple removal of the exclusion clauses. Experience has shown that problems exist even where collective bargaining is permitted by law. The following chapter will deal with the problems faced by professional workers and their employers in adopting collective bargaining relationships. Some of these problems,

it will be seen, have been attributed to the rigidity of the existing legislation as it applies to professional workers. The pressure to amend the labour laws will be discussed in relation to these problems.

At this point I shall confine myself to a few observations on the composition of labour relations boards under existing legislation, as these boards have considerable responsibility in interpreting and applying the law. These boards, it may be noted, have not reflected the changing character of the labour force in recent decades. There is, for example, no statutory provision for professional representation on labour relations boards, even when these boards are charged with making decisions on professional bargaining units. There have been strong arguments in favour of a change to assure professional representation. Some suggestions have been made to appoint professional representatives to existing labour relations boards on a permanent or ad hoc basis; others feel that separate professional boards would be better qualified to handle the particular problems of professional workers. In either case, it may be noted, the heterogeneous nature and diverse interests of the "professional" category could complicate the selection of professional representatives. Diverse and competing professional groups do not reach a consensus easily. Finally there have been suggestions for a "public board". This, it has been submitted, might avoid the problem of representativeness both for professional employees and for other categories of workers.

#### Civil Service Legislation

Apart from Saskatchewan, where government employees are covered by general labour legislation (The Trade Union Act), civil servants in Canada are subject to the labour relations provisions of separate civil service



acts. 16/ While collective bargaining for civil servants is in various stages of evolution in different parts of the country, some form of joint negotiation exists in most jurisdictions. In most cases, moreover, any collective bargaining rights that have been achieved apply equally to professional and non-professional workers. Professional exclusions in the Civil Service Acts are the exception rather than the general rule.

The British Columbia Civil Service Act is the only one that specifically excludes some professionals from its definition of employee 17/, but this is of little practical significance as British Columbia civil servants do not have collective bargaining rights.

The Manitoba Civil Service Act provides that professionals, along with managerial and administrative personnel and those employed in a confidential capacity, "may be excluded" from a collective agreement 18/, but it does not specify how and by whom a decision to exclude them would be made.

The Alberta Civil Service Act, on the other hand, allows "a group of persons...who are members of a professional association" to be excluded from negotiations "at the request of the majority of the persons in the group" 19/, (that is, by the decision of the professionals themselves). By recognizing the Civil Service Association as the sole bargaining agent of civil service employees, however, the Act effectively precludes separate professional negotiations. The Professional Institute of the Public Service of Alberta is presently seeking an amendment to the Act to allow for separate professional negotiations.

The Saskatchewan Trade Union Act gives professional civil servants full collective bargaining rights and, as has already been noted, considerable

flexibility in defining their bargaining unit. In actual practice, however, civil service professionals are represented by the Saskatchewan Government Employees Association and, by and large, bargain in the same unit with non-professional employees.

The Civil Service Acts of Prince Edward Island and New Brunswick make no mention of professional workers as such, but because they recognize their Civil Service Associations as representative of all employees, the professionals are automatically included. Some changes may be expected in New Brunswick, however, if the recommendations of the Frankel Royal Commission 20/ are implemented. Frankel recommended full collective bargaining rights for all civil servants, with bargaining units based on broad occupational classifications, one of which would be "professional and scientific". The recommendations preclude the statutory imposition of a bargaining agent. Each bargaining group would be represented by the bargaining agent of its choice.

The Nova Scotia and Newfoundland acts make no mention of professional employees as such and no provision for collective action by any civil servants.

The recently amended Public Service Act of Ontario (1965) grants all provincial civil servants collective bargaining rights through the Civil Service Association of Ontario, with arbitration as a means of resolving disputes. As there are no specific professional exclusions, the Act is assumed to cover professional employees. The position of the professionals is in some doubt, however, due to a provision of the Act which excludes any classification of civil servants in which more than 50% have supervisory or advisory responsibilities. 21/ It has yet to be determined which members

of the professional staff of the Ontario Civil Service will be eligible to bargain collectively.

Saskatchewan, Quebec and the Federal government grant full collective bargaining rights and the strike option to all civil service "employees", including professional workers. In Saskatchewan, as already noted, collective bargaining rights for civil servants come within the purview of the Trade Union Act which governs labour relations for all employees in the Province. In Quebec, the Civil Service Act (1965) extended the provisions of the Labour Code to provincial government employees. Like the Labour Code, the Act provides that professional workers bargain apart from their non-professional confrères, but in contrast to the Code it does not restrict their bargaining unit to members of a single profession. 22/

At the federal level, there are significant differences between the civil service legislation and general labour laws, particularly as they affect professional workers. In contrast to the Industrial Relations and Disputes Investigation Act (IRDIA) which specifically excludes a number of professional categories, the Public Service Staff Relations Act (1967) permits all professional workers in the federal civil service full collective bargaining rights. Separate professional classifications have been set up for this purpose. 23/ In view of this totally different policy toward professional workers under two pieces of collective bargaining legislation in the same jurisdiction, a reassessment of the professional exclusions of the earlier Act (IRDIA) might be in order.



Professional Negotiations Not Covered By Law: The Doctors' Dilemma

The main concern of this study is with professional workers who, by virtue of their status as salaried workers, could conceivably be covered by labour legislation. Some notice must be taken, however, of a significant group of non-salaried professionals for whom collective bargaining is becoming increasingly important but who, because they do not qualify as "employees" under the law, have no legal framework to define their bargaining rights and guide their bargaining practice. This is the position in which doctors are finding themselves under some public medicare programs.

A recent experience by the radiologists in Quebec was a dramatic illustration of the problem. While many of the radiologists were private practitioners, the fact that they were subject to a government plan required them to negotiate not only fee schedules but even some conditions (norms) of professional practice to be observed in their private offices. But there was no legal framework for collective bargaining, no time limit on the negotiations, no provision for dispute settlement.

When the discussions with government representatives reached an impasse (which culminated in strike action in the summer of 1967) the radiologists refused to submit to the dispute settlement provisions of the Labour Code, insisting that they were not "employees" as defined by law. They terminated the strike when faced with the threat of special legislation to force them back to work.

The Federation of General Practitioners of Quebec (Fédération des Omnipraticiens du Québec) has been particularly articulate about the

the absence of a legal framework for collective negotiations by non-salaried professionals involved in social security programs. With no time limit on negotiations and no legal mechanism for dispute settlement, they note, negotiations can be prolonged indefinitely to the disadvantage of the professionals, the government and the public alike. In a brief presented to the Castonguay Commission on Health Services, the Federation and other interested professional groups proposed two possible solutions. 24/

The first would be to amend the Professional Syndicates Act (under which the doctors' syndicates are presently incorporated) so that it would apply only to non-salaried professionals; clauses would then be added to the Act to provide for certification, checkoff, negotiation and dispute settlement.

An alternative proposal would be to leave the Professional Syndicates Act in its present form while setting up a parallel law for non-salaried professional workers. The new law would contain provisions for certification, checkoff and negotiation as well as "appropriate" machinery for dispute settlement should negotiations reach an impasse. While they are prepared to admit that the right to strike should not be considered absolute under all circumstances, these professional groups feel that a law for non-salaried professional workers must contain a more precise definition of "essential" service than that which is presently provided under the Labour Code and Civil Service Act.

The Brief expresses a preference for the second option, a separate Act for non-salaried professional workers. Given the inevitable delay in the drafting of such a law, however, it suggests the temporary insertion of a collective bargaining clause in the existing medical assistance

legislation. To the general practitioners and some of their like-minded colleagues at least, collective bargaining in a "legal ghetto" has become intolerable.



REFERENCES

- 1/ For detailed definition of professional exclusions, see:  
IRDIA, Part 1, Sec. 2(1).  
Alberta Labour Act, Part V, Sec. 55(f) (ii).  
British Columbia Labour Relations Act, Sec. 2(1) (b & e).  
Manitoba Labour Relations Act, Sec. 2(1) (i) (b & c).  
New Brunswick Labour Relations Act, Sec. 1(1) (i).  
Newfoundland Labour Relations Act, Sec. 2(1) (ii).  
Nova Scotia Trade Union Act, Sec. 1(j) (ii).  
Ontario Labour Relations Act, Sec. 1(3) (a).  
Prince Edward Island Industrial Relations Act, Sec. 1(i) (ii).
- 2/ This is due to a considerable extent to pressure from these professional groups themselves. Professional employee groups had "enjoyed" collective negotiation rights under Federal Statute PC 1003 between 1944 and 1948. Strong representations from professional associations at the time, however, resulted in the exclusion clauses in the labour legislation that followed. In 1948 the Federal Industrial Relations and Disputes Investigation Act (followed by various provincial statutes) excluded from its operations members of the medical, dental, architectural, engineering and legal professions.
- 3/ See J.D. Muir, Collective Bargaining by Canadian Public School Teachers, a Task Force study.
- 4/ The experience of the Ontario engineers illustrates this point. See in particular the problems of the Ontario Hydro engineers in establishing their bargaining relationship. For details see The Case of Engineers appended to this study.
- 5/ It should be noted, however, that the right to bargain collectively does not always include the right to strike. See section on Dispute Settlement, p. 94, for prohibition of work stoppages by specific professional groups in different jurisdictions.
- 6/ Take, for example, the case of the engineers who enjoy full collective bargaining rights under the law in Saskatchewan and Quebec. In Saskatchewan, formal collective bargaining is virtually non-existent. In Quebec, the practice varies widely from the repudiation of collective action in any form all the way to trade union affiliation and use of the strike weapon. For details see The Case of Engineers appended to this study.

- 7/ Jean-Réal Cardin, "Une montée inéluctable en économie moderne: le syndicalisme de cadres", Cadres, Vol. 1, No. 6 (Nov. 1964), p. 7.
- 8/ With the exception, as in all labour relations legislation, of those who are defined as "management" types.
- 9/ In an order issued by the Labour Relations Board of Saskatchewan, dated April 16, 1957, between Burnett C. Laws, and Ronald Earl Pelkey, Professional Engineers employed by the Government of Saskatchewan, and the Saskatchewan Civil Service Association (Certified Union), it was ruled that the said Professional Engineers be excluded from the operations of The Trade Union Act. The following quotation is taken from the said Board Order. "In the light of these and other facts and circumstances revealed in the course of the hearing, the majority of the Board were of the opinion that it would be contrary to the spirit and intentment of The Trade Union Act to constrain a small distinctive "fringe" group of professional employees to bargain collectively through a lay agency against their will when well and perhaps better able to do it for themselves as individuals and all to the detriment of the employer and to no appreciable advantage of the Union."  
Another Board Order, dated April 16, 1957, excluded Rupert Mervyn Heaton, a Professional Engineer employed by the City of Regina, from requirement to join the Electric Utilities Employees' Union, Local No. 9, chartered by the Canadian Labour Congress.
- 10/ The Saskatchewan Trade Union Act, Sec. 2(i) lists "professional associations" as follows:  
Law Society of Saskatchewan, the College of Physicians and Surgeons of the Province of Saskatchewan, the Saskatchewan Land Surveyors Association, the Saskatchewan Psychiatric Nurses Association, the Institute of Chartered Accountants of Saskatchewan, the Association of Professional Engineers of Saskatchewan, the College of Dental Surgeons of Saskatchewan, the Saskatchewan Pharmaceutical Association, the Saskatchewan Registered Nurses' Association, the Saskatchewan Veterinary Medical Association, the Saskatchewan Physical Therapists Association, and the Saskatchewan Institute of Agrologists.
- 11/ Report of the Select Committee of the Legislature established to study the Labour Relations Act, Fredericton, New Brunswick (1967) pp. 4-5.
- 12/ Saul J. Frankel, Report of the Royal Commission on Employer-Employee Relations in the Public Service of New Brunswick, (1967), pp. 19-20.
- 13/ John H.G. Crispo, in Collective Bargaining and the Professional Employee. Conference Proceedings, Centre for Industrial Relations, University of Toronto, (Dec. 15-17, 1965) p. 122.

- 14/ Officials of professional associations point out that these constitute a minority of professionals in Ontario. The Association of Professional Engineers of Ontario estimates that only 10% of its membership would favour a Professional Negotiations Act.

The following professional employee groups are represented on the Steering Committee: Association of Professional Administrative Staff, Toronto Board of Education; Association of Engineers of the Bell Telephone Co. of Canada, Ontario Branch; Canadian National Telecommunications Professional Engineers' Group; Canadian Standards Association Testing Laboratories Professional Engineers' Group; Committee for the Advancement of Professional Nurses; Hawker-Siddeley Toronto Professional Engineers' Association; Institute of Professional Librarians of Ontario; Ontario Civil Service Professional Engineers' Group; Ontario Council of Northern Electric Engineers' and Associates, Bramalea Chapter; Ontario Council of Northern Electric Engineers and Associates, Belleville Chapter; Ontario Council of Northern Electric Engineers and Associates, London Chapter; Ontario Water Resources Commission Professional Engineers' Group; Professional Engineers Group, Canadian General Electric, Guelph; Professional Engineers Group, Canadian General Electric, Peterborough; Professional Engineers Group, Toronto Hydro-Electric System; Professional and Senior Administrative Employees of the Civil Service Association of Ontario, Branch 141; Society of Ontario Hydro Professional Engineers and Associates; Society of Directors of Municipal Recreation of Ontario.

- 15/ See Chapter I, (References), No. 9, pp. 12-13 above.
- 16/ Municipal employees, on the other hand, are covered by the provisions of general labour legislation in the province in which they are located.
- 17/ Exclusions under the British Columbia Civil Service Act are listed as follows:  
"This Act applies to all provincial employees appointed by the Civil Service Commission except (1) Provincial Policemen; (2) private secretaries of ministers of the Crown, and the Lieutenant-Governor or; (3) persons holding or hereafter appointed to positions designated by the Lieutenant-Governor-in-Council, which require special professional, technical or administrative qualifications..."
- 18/ Manitoba Civil Service Act, S. 45A (4).
- 19/ Alberta Public Service Act, Part 2, S. 54(c).
- 20/ Frankel, op. cit.



21/ Ontario Regulation 239/65.

22/ Quebec Civil Service Act (1965), Sec. 69, a, b, c, Sec. 71, Sec. 72.

23/ See Chapter I, (References), No. 7, p.11.

24/ Premier Mémoire présenté à la Commission d'Enquête sur la Santé et le Bien-Etre Social par l'Association des médecins du service de santé de la ville de Montréal, l'Association professionnelle des chirurgiens-dentistes du Québec, l'Association professionnelle des opticiens d'ordonnances du Québec, l'Association professionnelle des optométristes du Québec, l'Association professionnelle des pharmaciens du Québec, la Fédération des omnipraticiens du Québec, (avril 1967) pp. 156-159.

#### CHAPTER IV

##### ESTABLISHING A BARGAINING RELATIONSHIP: BASIC PROBLEMS AND ALTERNATIVE MECHANISMS

The task of identifying general problems is complicated by the fact that the "professional" category is by no means a monolithic entity, that attitudes toward collective bargaining vary both between and within professional groups, and that the legal provisions governing employment relationships for salaried professionals differ between jurisdictions under our federal system. Moreover, as has been noted already, the practice of collective bargaining by professionals in Canada is unevenly distributed on a geographic basis; in some cases, notably that of the professional engineers, formal collective bargaining relationships and trade union affiliation are virtually limited to Quebec; and even here, they are limited to the French-Canadian group working in the public sector.

As I could only abstract the problems of the bargaining relationship, as required by my terms of reference, from cases where these problems have occurred, that is, in the light of collective bargaining experience, a disproportionate emphasis on happenings in Quebec has been unavoidable. I have already mentioned this bias and suggested that some caution be exercised in generalizing from the Quebec experience. But although it is well to remember that Quebec has not been "une province comme les autres" in collective bargaining for professional workers, there is reason to believe that the precedents set in this province are already being watched with interest in other parts of the country. 1/ They have certainly provided valuable insights for the purposes of this study.

Experience shows that wherever professional workers and their employers have adopted or are considering the adoption of a collective bargaining relationship, certain basic problems must be resolved. These problems, the alternative mechanisms that have been evolved, and some subsidiary questions that they raise will be treated under the following general headings:

The Bargaining Unit

The Parties to the Bargaining Relationship

Professional Issues

Dispute Settlement

The first two are related to the establishment of the bargaining relationship itself and will be analysed in some detail in this Chapter. The others concern the protection of professional prerogatives and the exercise of professional responsibility. They will be considered in Chapter V. A final chapter will then be devoted to a summary of the findings and some conclusions and recommendations that flow from them.

### The Bargaining Unit

The establishment of a logical and acceptable bargaining unit is a necessary preliminary to collective bargaining. The form and composition of the bargaining unit rests on the answers to the following questions:

Who shall be included?

- in terms of employment status

- in terms of professional status

What physical area shall be covered?



Eligibility for the Bargaining Unit: Employment Status

A. The Labour-Management Dichotomy— All collective bargaining legislation in Canada, whether or not it applies to professional workers, is predicated on a clearcut differentiation between labour and management functions. This excludes from the definition of "employee", and consequently from the bargaining unit, anyone performing "management functions", or employed in a confidential capacity. However, the establishment of the demarcation line between labour and management functions has presented more serious problems for professional workers than for the mass of non-professional employees for whom the legislation was originally envisaged. In view of the generally responsible nature of professional services and duties, as well as the obvious cases where professional and management functions are fused, a relatively high proportion of salaried professionals are, by legal definition, and by decisions of labour relations boards, excluded from collective bargaining rights. Thus the problem of management exclusions, with the corollary restriction on the size of the bargaining unit, has emerged as one of the most contentious points to be resolved before a bargaining relationship can be established.

For some professional unions, notably the engineers, the struggle for broadly based bargaining units seems to be considered as a matter of life or death. Quebec engineers cite the demise of engineering unions in the United States to prove this point. Their argument runs as follows: Because bargaining units were restricted to the lowest level of engineers, the number eligible for membership was always too limited for effective countervailing power. In addition, with the management line drawn so low, companies could easily transfer or promote the union activists out of the bargaining unit, weakening the strength of the union still further.

To many employers, however, particularly those in the industrial sector, the inclusion in a professional bargaining unit of persons exercising supervisory responsibility would pose a threat to the whole administrative structure of decision making and authority on which the efficient operation of a business depends. The personnel manager of a large crown corporation put the employers' case as follows: "Who'll be left to give the orders when we're all on the same side of the bargaining table?"

A few examples from the experience of selected professional groups may illustrate the complexity of the problem and the range of alternative solutions.

The variety of professional roles, the degree of responsibility they entail and the different circumstances of employment in government, industry and other institutions have made it virtually impossible to establish an unequivocal standard of appropriate management exclusions. For example, the engineering study showed that the demarcation line for management exclusions has been drawn at a higher level and, with less controversy, for engineers in municipal and government employment, than for members of the same profession (and represented by the same union) working in an industrial context. To illustrate: only 5% of professional engineers employed by the City of Montreal are excluded from the bargaining unit, compared with nearly 40% at Hydro-Quebec. Where the decision-making role of professional workers is clearly limited by the realities of municipal employment, that is, where ultimate policy is determined at the political level, the engineers have found the problem of management exclusions easier to resolve.

One also finds more flexible criteria for management exclusions for professionals in the Civil Service, Quebec and Federal, than is presently the case for similar workers in industrial employment in the same

jurisdictions. In the federal civil service, moreover, there is even provision for a Review Board and grievance procedure for professionals who are excluded from bargaining units. This was felt necessary because so many of them had formerly been included under the regime of informal civil service negotiations that preceded the adoption of formal collective bargaining. 2/

While circumstances of employment (e.g., government or industrial) may affect the proportion of management exclusions and the provisions for excluded personnel, there are other important influences on the definition of professional bargaining units. The following points may be noted in particular:

1. The discretion available to labour relations boards in interpreting existing legislation, and
2. the conflicts of interest and disciplinary problems inherent in broadly defined bargaining units.

In the case of the nurses, for example, the determination of the "appropriate bargaining unit" has rested with provincial labour relations boards. While the decisions of these boards have consistently respected the basic labour-management dichotomy required by the law, the level of supervisory personnel included in the bargaining unit has varied considerably between hospitals in different jurisdictions. In other words, the Boards have differed in their interpretation of labour and management functions and these differences have been reflected in the bargaining units they have certified.

Because the demand for collective bargaining for nurses has come from nursing associations which are in large part dominated by senior members of the profession, labour relations boards have been faced with considerable



pressure to draw the line for management exclusions at as high a level as possible. Where the boards have acceded to these demands however, certain disciplinary and administrative difficulties have been encountered.

Consider for example, the incongruous position of a nursing supervisor who becomes the object of a grievance by a fellow member of the bargaining unit, a relatively rare occurrence, but one which illustrates the conflicts of interest and disciplinary problems that can arise when professional persons with supervisory authority are included in an employee bargaining unit.

The problem is not limited to the nursing profession. For example, it was to avoid a similar conflict of interest that a Royal Commission in New Brunswick recommended the exclusion of school principals from teacher bargaining units. Professor Frankel explains his position as follows:

...It seems unavoidable that principals and, probably, vice-principals should be regarded as management in so far as they would be called on to represent the employer in any grievance procedures that would be established in collective bargaining. 3/

While the Task Force study on Teachers found that the majority of their bargaining units still include administrative teachers such as principals and vice-principals, it showed that there are already some exceptions. 4/ In the teachers' case, at least, there should be no particular difficulty in drawing the line if and when a decision is made to exclude administrative personnel.

One solution to the problem of delineating management exclusions, particularly in the industrial context, is suggested by the Ontario Steering Committee in its brief for a separate Professional Negotiations Act. This would exclude from the definition of employee, and consequently from the bargaining unit:

...any person who would otherwise be a professional employee but who has final authority with respect to the conditions of employment of professional employees and who is in a confidential capacity with respect to the regulation of relations between professional employees or professional staff associations and employers. 5/

This principle has actually been put into practice in a number of cases in Quebec. Under the agreement between the Quebec Government and its professional employees, for example, a civil servant may exercise supervisory functions, even over other professionals, and still be eligible for membership in the bargaining unit of his professional group. However, if his position is such that his recommendation could affect the hiring, firing, discipline, promotion, etc. of other professional personnel, or if he is employed in a confidential capacity, he is excluded as a management type. 6/ Similar criteria for management exclusions formed the basis of a settlement between Hydro-Quebec and its engineering union after two bitter recognition strikes (1965-1966) to determine the limits of the bargaining unit. By excluding professional engineers in the top three levels of the organizational hierarchy at Hydro, management functions were, by and large, defined in terms of hiring, firing and promotion rights over other professional engineers.

The experience at Hydro-Quebec is significant because of its wider implications, namely the repudiation by the engineering union (backed by the CNTU) of the present Labour Code as a vehicle for collective bargaining by professional workers, in spite of the fact that it is this Code that first gave them legal collective bargaining rights. The negotiations, the strikes, and the settlement took place entirely outside the provisions of the Code. The engineers, affiliated with the CNTU and incorporated under the Professional Syndicates Act, preferred to rely on power relationships to define their bargaining unit, rather than submit to the provisions of the Code and risk a narrow

interpretation of "employee status" by the Labour Relations Board. The significant point here is the rejection, by the CNTU, of the underlying philosophy of the Labour Code in its application to professional workers. The opposition to the Code is based on the issue of management exclusions and is expressed in the ideological commitment by the CNTU to the concept of "cadres" unionism.

B. "Cadres" Unionism - The issue of "cadres" unionism as such is virtually limited to Quebec, but the debate on it has been sufficiently lively and the challenge to the authority structure of North American industrial organization sufficiently serious to warrant some account of it here. "Le syndicalisme de cadres", as envisaged by its proponents, would blur the demarcation line between labour and management in bargaining units for professional workers. While present Canadian (and American) labour legislation is predicated on the division of organizations into two monolithic categories, those who obey and execute and those who manage, the adoption of "cadres" unionism would acknowledge an intermediate category on the French and European pattern. In Professor Cardin's words:

The 'Cadres' are not members of the Board of Directors and do not make general policy decisions for the organization; but at one level or another they take part in administration, control or advice... They bring, under this collective title, all those who are not pure doers, who exercise a certain amount of initiative and responsibility whether human (as in personnel management), scientific, technical or administrative. The 'cadres' therefore, do not include only those who hold a managerial or administrative function ('line') but also those who, without actually directing employees or acting as administrators "per se", assume some kind of scientific, professional or technical responsibility ('staff'). As 'staff' they participate in management as much as 'line' and fall into the category of 'cadres'. There can be no doubt that engineers, for example, are part of the so-called 'cadres' of their organizations...



Those who form the 'cadres', then are essentially salaried employees, including all who in one role or another, at one level or another, assist top management in establishing its policies and supervising their application at the executory level. 7/

"Cadres" unionism as defined above would include in a single bargaining unit all the members of a profession employed in an enterprise (e.g., all professional engineers at Hydro-Quebec) whether in a supervisory or non-supervisory capacity, on the ground that "they do not make decisions influencing the options or policies of the enterprise, but they are situated at the starting point of the application of such options or policies". 8/

The present Labour Code, by definition, precludes this type of bargaining unit. So also, according to management spokesmen, does the administrative structure of North American industrial enterprise. For the latter reason in particular, it is doubtful whether even the professional unions (in Quebec) envisage transplanting the French version of "cadres" unionism in unmodified form to the North American industrial context. To the extent, however, that this concept has served as a model on which the CNTU has based its demands for broadier bargaining units, and that considerable success has been achieved in imposing a broader de facto definition of employee status, the theory of "le syndicalisme de cadres" has had a profound influence on the direction of professional unionism in Quebec.

C. Separate Levels of Supervisory Unionism— There have been some suggestions that a modified version of "cadres" unionism, in the form of separate levels of supervisory unionism, would respect a hierarchical structure of authority while recognizing the bargaining rights of a larger proportion of professionally trained employees. Thus we find the Registered Nurses' Association of Ontario, for example, advocating the certification of

two separate nursing organizations, one to represent the supervisory level of the profession, the other registered and graduate nurses who do not direct but rather provide the traditional bed-care for which all nurses have been trained.

The Federal Public Service Staff Relations Act (1967) may, in fact, be breaking new ground in this area by providing for the possibility of separate bargaining units for supervisory and non-supervisory personnel in the same occupational category. Section 26(4) of this Act states that a bargaining unit may contain

- a) ...all of the employees in an occupational group.
- b) ...all of the employees in an occupational group other than employees whose duties include the supervision of other employees in that occupational group.
- c) ...all of the employees in an occupational group whose duties include the supervision of other employees in that occupational group.

Neither this type of supervisory unionism, nor the "cadres" unionism described above, is covered by the provisions of any other collective bargaining legislation in Canada. However, the success of the French Producers' Strike at Radio-Canada (1959) in forcing the recognition of a supervisory union (the Producers' Union), and the more recent experience of the engineers at Hydro-Quebec (1965-1966) in broadening their bargaining unit, may have important implications. Their experience has shown that, where traditional legal methods fall short in handling new problems in industrial relations, power relationships outside the law may take over. As Roger Chartier observed, in a critical analysis of "cadres" unionism, "Forceful precedents are often what make new laws". 2/

D. A Challenge for Public Policy-- Time, and perhaps the Task Force, will tell whether the professional bargaining units of the future will be determined by new legislation, by a more flexible interpretation of existing legislation, or by the force of brute power relationships. One thing is certain. For those who subscribe to a philosophy of industrial relations in which freedom of association and collective bargaining are regarded as fundamental employee rights, the anomalous position of salaried professionals poses a particular problem. The need to protect these basic rights for the growing number of professional workers in paid employment, and to reconcile them with the administrative requirements of North American business organization, is a major challenge of contemporary industrial relations.

Eligibility for the Bargaining Unit: Professional Status— The issue of craft versus industrial organization has been an important consideration in the determination of bargaining units for professional employees as well as for other categories of workers. The principle of craft unionism is maintained when negotiating groups are confined to members of a single profession or to specialized categories within a profession. 10/ The pattern of industrial unionism, on the other hand, is reflected when two or more professional groups bargain together and, a less frequent occurrence, when professional and non-professional employees are represented in a common bargaining unit.

The professional basis of organizing bargaining units rests on a number of factors and evokes conflicting views. In some cases, the professional composition of the bargaining unit is rigidly determined by law,



in others there is an element of choice by the professional groups and some discretion by labour relations boards as well.

A. The Case for Exclusive Professional Bargaining Units— Under the Quebec Labour Code and the federal Public Service Staff Relations Act, it will be remembered, the principle of craft unionism is protected by law. 11/ For groups governed by a particular code of ethics, this exclusive basis of organization is sometimes the only structure compatible with their professional status. In some of the formally organized professions, moreover, social status is so closely related to an exclusive professional identity that bargaining in concert with other professional groups would be unthinkable. Thus when collective bargaining was adopted in the federal civil service, the Canadian Medical Association and the Canadian Bar Association, although hardly enthusiastic, agreed to raise no objection so long as professional differences were respected in establishing negotiating units. In addition, it has been pointed out, with reference to the federal civil servants, that a classification based on professional specialization permits easier comparison with outside market conditions, thus facilitating pay determination policies for different professional groups.

B. The Pitfalls of Professional Exclusiveness— The protection of craft rights, it may be noted, is to a significant extent a function of size. The large number of professional employees in the federal civil service, for example, makes it feasible to respect professional distinctions. On the other hand, where there are many classes of professionals, generally in small numbers, as in a provincial civil service, or separate institutions, exclusive bargaining units may be more difficult to maintain. 12/

In the case of some hospitals, for instance, it has been pointed out that a legal requirement to bargain with separate professional groups, and with the specialized categories within these groups, could result in such a proliferation of bargaining units that meaningful negotiation would be impossible. It is evident that a balance must be achieved between the protection of legitimate differences of interest and an unmanageable proliferation of bargaining units.

The strict prohibition on multi-professional unionism under the Quebec Labour Code has, in fact, provoked objections from both sides of the bargaining table. Union officials have complained that professionals employed in too small a number to form exclusive bargaining units are effectively deprived of bargaining rights, while employers point out that the fusion of professional functions in certain industrial operations may make separate bargaining units unrealistic.

Although the syndicalist movement of professors at the University of Montreal is an exceptional case 13/, it illustrates an interesting problem arising from the craft provisions of the Labour Code and envisages a rather ingenious solution. The multiplicity of academic disciplines ("professions") represented in the membership of "le Syndicat des Professeurs de l'Université de Montréal" (SPUM) is regarded by its organizers as a major legal obstacle to its accreditation. Any division of the bargaining unit, on the other hand, would erode its potential strength.

To circumvent the craft provisions of the Labour Code and to maintain the unity of the professors' syndicate, legal advisors of SPUM have proposed an all-inclusive definition of "university professor" as a professional category in itself. 14/ If this definition were accepted by the Labour

Relations Board as a legitimate professional classification (and if it were acceptable to the rival disciplines and faculties within the academic community) it could avoid the charge of multi-professional unionism and facilitate accreditation under the Code.

I found other instances where craft provisions of the Labour Code have frustrated the establishment of bargaining relationships. I noted, for example, the problem of defining the limits of a bargaining unit for professional engineers when non-engineers (e.g., scientists) and engineering technicians are hired along with them, particularly in private industry, for engineering work. 15/ The problem is compounded by the fact that the Code restricts bargaining units of professional engineers to members of the professional Corporation (Corporation des Ingénieurs du Québec, the licensing body) thus separating many non-registered immigrant engineers, for bargaining purposes, from their Canadian counterparts although they may have the same professional training and work side by side in the same enterprise. 16/

C. All-Inclusive Bargaining Units— While it is not unusual for several professional groups to form a common bargaining unit, if legislation permits (as in the Quebec Civil Service Act), the experience of professionals and non-professionals bargaining together is less frequent 17/ and less happy. Jacob Finkelman, former Chairman of the Ontario Labour Relations Board, noted that Board decisions have sometimes "swept" a small number of professional employees into a predominantly non-professional unit, but that this has usually occurred where the few professionals involved have not raised any objections; the Board was consequently unaware of their existence. 18/ The implication would seem to be that the practice is undesirable.



A number of instances were noted where civil service professionals were "caught" in all-inclusive bargaining units by default rather than by design. Where provincial governments have granted collective bargaining rights to their employees by formalizing a de facto negotiating relationship with a long established civil service association, the effect has been to entrench all-inclusive bargaining units in the law. Alberta is a case in point and professionals there are now pressing for an amendment to the Civil Service Act to give them separate bargaining rights. It will be remembered that a similar amendment to the Trade Union Act in Saskatchewan (1965) gave professional civil servants, as well as all other professional employees, the right, though not the obligation, to opt out of non-professional bargaining units. The professional engineers in Saskatchewan have used this amendment to opt out of collective bargaining itself rather than to establish more "appropriate" professional bargaining units. The flexibility of the system, however, commends it for consideration. 19/

The Area of the Bargaining Unit — I have devoted considerable attention to the issue of eligibility of the professionals to the bargaining unit because of the challenge this presents to some basic premises of our industrial relations system. The area of the bargaining unit, on the other hand, provokes considerable controversy in specific cases, but fewer fundamental challenges.

Two points may be noted briefly with reference to the area of the bargaining unit:

1. The trend toward province-wide bargaining.
2. The problem of divided jurisdiction.

A. Province-Wide Bargaining Units— In discussing the role of the employer in the section below, there will be occasion to draw attention to the maxim that "he who pays the piper calls the tune". This maxim is also a significant factor in determining the area of the bargaining unit. With increasing government expenditure in areas of high professional employment, such as education and health services 20/, there is a growing trend, imposed by government, toward regional or province-wide bargaining. While nurses as a whole seem to favour this trend 21/, to some professionals, teachers for example, the "levelling process" implicit in centralized bargaining represents a threat to entrenched local privileges, "acquired rights", and has provoked considerable resistance. 22/ As the trend seems irreversible, however, particularly when it is imposed by government, it appears to represent a fact of life to which the teachers will have to adjust. 23/

B. Divided Jurisdiction— For some professionals in industrial employment, the system of divided jurisdiction in labour matters, and the differences in federal and provincial labour laws with respect to professional workers, not only preclude common bargaining units but complicate relationships and limit cooperation between members of the same profession in different branches of a single company. Numerous examples might be cited, but one will suffice to illustrate the general problem.

Consider the position of the professional engineers at Bell Telephone, a federally incorporated company with branches in Montreal, Quebec City, Ottawa and Toronto. Regardless of the branch in which they are employed, ninety per cent of these engineers belong to the Association of Engineers of the Bell Telephone Company of Canada, through which they

present their common salary demands. If a formal collective bargaining relationship were to be adopted, however, certification of the Association by the Canada Labour Relations Board would be impossible, due to the professional exclusions of the IRDIA. Any attempt to bargain in provincial units, on the other hand, would discriminate in favour of the Quebec employees. The Labour Code of that Province would give them full collective bargaining rights; but their counterparts in Ontario, being excluded from the Labour Relations Act, would still be dependent on voluntary recognition.

#### Parties to the Bargaining Relationship

The Bargaining Agent for Professional Workers - The choice of a bargaining agent presents problems to professional workers which do not exist for other categories of employees. Three alternatives are available:

1. The professional association as a bargaining agent.
2. An independent structure for collective bargaining purposes.
3. Trade union affiliation.

A. The Role of the Professional Association - Professional associations differ in their official attitudes toward collective bargaining. Some, such as teachers' and nurses' associations, have taken the initiative in the adoption of collective bargaining practices and indeed, in some provincial jurisdictions, have been certified as bargaining agents for their members. Others, notably engineering associations, have been in the forefront of opposition to formal collective bargaining. 24/



Even when a professional association favours collective bargaining, however, the desirability of it being the negotiating agent for its employee members has been open to serious question. The principle objections that have been put forward may be summarized as follows:

1. The fact that members of the same profession may be employers or employees, and that, in the latter capacity, they may perform a variety of supervisory or non-supervisory roles, does not affect their membership in a single professional association but frequently places them on opposite sides of a common bargaining table. When the bargaining relationship involves a conflict of interest between members of the same profession, it has been suggested that it is incongruous, in principle at least, for the professional association, to which they all belong, to act as agent for one of the parties. The negotiators might be caught in a serious dilemma of divided loyalty. 25/
2. Serious objections have also been raised, on ethical grounds, to the combination in a single body, in this case, the professional association, of the public interest function of licensing with the self-interest function of collective bargaining. The possibility, however remote, of restricting numbers to improve self interest has been put forth as a forceful argument to preclude professional associations with licensing authority from acting as bargaining agents. 26/

B. Separate Bargaining Structures — It has been suggested that the conflicts of interest noted above could be most easily avoided and the ethical problem resolved if one organization, the established professional

association, confined itself to grouping its members on a professional basis, and a separate negotiating structure, with or without trade union affiliation, was set up on behalf of those who are eligible for the bargaining unit. 27/ This is, in effect, the system in Quebec, where labour legislation requires professionals to be organized as syndicates or groups, distinct from their professional associations, for collective bargaining purposes. In some provinces, on the other hand, historical practice has entrenched the position of certain professional associations (notably nurses and teachers) as bargaining agents and any change at this time would, it must be noted, upset a well established and generally accepted pattern of bargaining relationships. 28/

C. Trade Union Affiliation— Although some professional groups in Canada have achieved considerable success in establishing collective bargaining relationships with their employers, they have shown a general resistance to trade union affiliation. While the AFL-CIO in the United States is making increasing efforts to organize professionals 29/, and can in fact point to the 49,000 member United Federation of Teachers (New York) as its biggest local union, its counterpart in Canada, the Canadian Labour Congress (CLC), does not have a single affiliated union composed entirely of professional workers. Some CLC affiliates (e.g., the Steelworkers, Oil Atomic and Chemical Workers) on the other hand, count a number of professional employees among their general membership, but these are difficult to identify.

The Canadian Union of Public Employees (CUPE) undoubtedly boasts the largest professional membership of any CLC affiliate, it has shown the greatest interest in organizing professional workers, but it has had

little success in organizing exclusive professional units. With the exception of a few groups of social workers and librarians, most of CUPE's professional members are in bargaining units with non-professional workers. For example, some nurses and other professionals may be found in all-inclusive unions of hospital or municipal employees. 30/ In the attempt to organize nurses in separate professional unions, on the other hand, CUPE has so far faced a running, and losing, battle with provincial associations of registered nurses.

A notable exception to this general pattern may be found in Quebec, where the CNTU has achieved some spectacular successes in the organization of French-speaking professional workers. CNTU membership now includes the professional engineers of Hydro-Quebec, the City of Montreal and the Government of Quebec, and the other professionally trained employees of the City and Government. 31/ These are organized as separate syndicates affiliated with the overall Fédération des Ingénieurs et Cadres du Québec. 32/ In addition, the CNTU has a union of nurses, the Alliance des Infirmières, and a union of social workers, le Syndicat des travailleurs sociaux de la province de Québec; it has organized the teachers of technical and vocational schools in the Province, in the Syndicat des Professeurs de l'Etat du Québec, and it acts in an informal "consultative" relationship to a number of other professional groups.

Although this unique success in organizing professional workers has been attributed to particular characteristics of the Quebec milieu, and of the CNTU itself, many students of the labour movement still regard the growing proportion of professional workers in the labour force as a potential source of future union membership in other parts of the country. Thus,



the option of union affiliation, as presently exercised by the professionals in Quebec, and the possible extension of bargaining rights to higher levels of supervisory authority, poses a subsidiary question of considerable general interest:

Where employees are organized on hierarchical levels within an enterprise, for example where engineers who are themselves in a professional bargaining unit exercise authority over non-professional employees in a different bargaining unit (of the same company), is there any incompatibility in both groups being affiliated with the same central labour organization? At present the question is largely an academic one, but its implications merit consideration. For those who look to France and other European countries for the model of "le syndicalisme de cadres", it may be only logical to note that "cadres" unions in these countries are, by and large, affiliated with their own labour "centrales".

D. The Right to Select the Bargaining Agent - Where professional workers have been granted collective bargaining rights under labour legislation, they have usually enjoyed considerable freedom in the choice of their bargaining agent. However, two significant exceptions to this freedom of choice may be noted.

1. The first occurred fairly recently in Quebec. With the passage of Bill 25 (1967) to end the famous teachers' strike in this province, the parties to the bargaining relationship were designated by the provincial government. Thus all public school teachers in Quebec, depending on their language and religion, must now belong to one of the three associations that are named in the law to bargain for them. 23/

2. Some civil service legislation was also found to restrict free choice of a bargaining agent but more by historical accident than by design. Where a civil service act specifically recognizes an established provincial civil service association as the bargaining agent for government employees, it not only precludes separate bargaining units for professional civil servants, it also denies them the choice of their bargaining agent. 34/

The Role of the Employer: External Influences— While several alternatives present themselves in the choice of employee bargaining agents, the definition of employer in the bargaining relationship has only recently been open to question. In the industrial context or the civil service, there is no problem in answering the question: "Who shall sit on the employer's side of the bargaining table?" In the former, it is the responsible head of a company or his designated representative, in the latter it is clearly a government official.

A. Government Intervention— With growing government participation in the financing of schools and hospitals, however, the problem of defining the effective employer of the professionals in these institutions is more complex. If we subscribe to the maxim that "he who pays the piper calls the tune", it becomes increasingly clear that the effective employer and the legal or formal employer are not necessarily synonymous. The experience of the teachers in Quebec is a case in point. With government imposition of salary guidelines in 1967, the employer prerogatives of regional school boards were effectively restricted; with the subsequent passage of Bill 25, the role of government was firmly established as a party to the bargaining relationship. Public school teachers in Quebec are still technically in

the employ of the school boards, just as hospital staffs are employed by hospital boards but, as Professor Frankel noted in his New Brunswick study, they no longer possess the means or capacity of fulfilling the employer function in collective bargaining. In considering the question of who should sit on the employer's side of the bargaining table, Frankel remarked:

It is a necessary condition of effective direct negotiations that those who confront each other should have the capacity and authority to commit their respective sides to offers made or agreements reached. 35/

Where, as in New Brunswick, the government has full financial responsibility for the operation of schools and hospitals, Frankel recommends that teachers and nurses bargain directly with the cabinet ministers concerned.

The extent of government financial control varies between provinces. So also does formal intervention in the bargaining process. However, whether government representatives act as parties to the negotiation or make their presence felt as "ghosts" behind the bargaining table, the effect on the evolving relationships between hospital administrators and their professional staffs, school boards and their teachers, can hardly be over-estimated.

B. The American Influence — In considering the external influences affecting employer prerogatives, one can hardly avoid the perennial Canadian problem of American domination.

The wholly owned subsidiary is a case in point. Again the question arises as to who is the effective employer. The engineering study indicates that where American parent companies have opposed collective bargaining



rights for their professional employees at home, Canadian subsidiaries may be expected to fall in line. One informant put the matter succinctly:

Any research that Canadian engineers can do could easily be removed to the States. What recourse would we have?

REFERENCES

- 1/ It was found, for example, that a number of professional groups outside the province have initiated "informal" contacts with the Fédération des Ingénieurs et Cadres du Québec, the CNTU federation of professional syndicates. These contacts are in the form of requests for copies of contracts negotiated for professional workers, subscriptions to the union publication, Cadres, and invitations to CNTU officials to address professional groups in other parts of the country.
- 2/ The Professional Institute of the Public Service of Canada spoke on behalf of all professionals, regardless of employment status, under the regime of informal negotiations. The Institute is now trying to be certified as bargaining agent for the new professional bargaining units established under the PSSRA. For a discussion of the criteria for "management" exclusions in the Civil Service, see pp. 60 and 63.
- 3/ Saul J. Frankel, Report of the Royal Commission on Employer-Employee Relations in the Public Service of New Brunswick, (1967), p. 90.
- 4/ See J.D. Muir, Collective Bargaining by Canadian Public School Teachers, a Task Force study.  
  
The exceptions are in:
  - a) Manitoba, Québec, and Nova Scotia where a number of administrators have elected to opt out of the teachers' organization, and
  - b) in some areas of Ontario and Quebec where the administrators negotiate separately with the school boards (both individually and as a group).
- 5/ Draft Professional Negotiations Act, 1966. Sec. 1(1)(a).
- 6/ The criteria for management exclusions were set out as follows in a letter of agreement between the Quebec Government and each of the syndicates of its professional employees. This coincided with the signing of their first collective agreement (August 10, 1966):

Les parties reconnaissent que les critères qui ont servi de base pour établir les exclusions de l'unité de négociation de la présente convention (annexe "A" de cette même convention) sont les suivants:

Est exclu de l'unité de négociation:

- a) un employé qui, par analogie avec les termes de l'article 1, alinéa m), sous-paragraphe 1, du Code du travail, est employé à titre de gérant, surintendant, contremaître ou représentant du Gouvernement dans ses relations avec ses employés professionnels, c'est-à-dire ceux qui sont mentionnés aux alinéas b) et c) de l'article 69 de la Loi de la fonction publique; est considéré contremaître, par analogie, celui dont l'ensemble des responsabilités attachées à sa fonction, en matière de gestion du personnel, exigent qu'il fasse des recommandations notamment quant à la promotion, mutation, traitement et mesures disciplinaires relativement à des professionnels, qu'ils soient ou non de la même profession;
- b) Un employé qui agit comme conseil auprès de la direction:
- c) un employé dont l'emploi est d'un caractère confidentiel au sens où cette expression est employée dans le Code du travail à l'article 1, alinéa m), sous-paragraphe 3.

7/ Jean-Réal Cardin. "Une montée inéluctable en économie moderne: le syndicalisme de cadres", Cadres, Vol. 1, No. 6, Nov. 1964, p.7. Translated by Roger Chartier in "Supervisory and Managerial Unionism under Quebec Labour Legislation", The Canadian Personnel and Industrial Relations Journal, Vol. 13, No. 5, Nov. 1966, p. 37.

8/ Marcel Pepin, in translated report of General Secretary to 41st Convention of the CNTU, 1964, pp. 9-11.

9/ Chartier, loc. cit. p. 42.

10/ For example, the doctors in Quebec are organized into separate federations of general practitioners and specialists while the Federation of Specialists, in turn, is composed of twenty separate syndicates representing different areas of medical specialization.

11/ See Chapter III, pp. 37 and 46.

12/ In the Quebec Civil Service, for example, the CNTU originally (1965) organized professionals into six separate syndicates, le Syndicat professionnel des ingénieurs du Gouvernement du Québec, le Syndicat professionnel des ingénieurs forestiers du Gouvernement du Québec, le Syndicat professionnel des agronomes du Gouvernement du Québec, le Syndicat professionnel des arpenteurs-géomètres du Gouvernement du Québec, le Syndicat professionnel des comptables agréés du



Gouvernement du Québec, and le Syndicat interprofessionnel de la fonction publique du Québec (covering economists, statisticians, sociologists, etc.). Recently (1968) however, all but the Chartered Accountants decided to merge into one multi-professional union, le Syndicat des Professionnels du Gouvernement du Québec.

13/ See Chapter II, p. 30.

14/ An interesting precedent may be noted in the federal civil service. While maintaining professional distinctions in other areas, the new classifications provide for a "University Teachers" group to cover the academic staffs of the three Canadian military colleges, Royal Roads, Royal Military College, St. John's Military College. It is too early to know however, whether these will be certified as bargaining units.

15/ This is a practice that professional engineers' associations have consistently deplored but they have always been powerless to interfere with the assignment of work to employees in private business. In Quebec, the Professional Engineers Act (Article 5j) actually spells out the right of employers to hire whomever they want for a wide range of engineering work without interference from the licensing body.

16/ See The Case of the Engineers, appended to this study, for specific illustrations of the problem of Marconi, Northern Electric and RCA Victor. Also, in the same appendix, see the dispute between Hydro-Quebec and the engineers' syndicate re jurisdiction of the syndicate over non-registered engineers.

17/ Some professionals can be found in unions which bargain for other categories of employees. For example, there are public health nurses in some unions of municipal employees, other nurses bargain in all-inclusive unions of hospital employees and, an unusual case, the Steelworkers have organized the white collar workers at Falconbridge Nickel Mines and have included many professionals, including geologists and engineers (but excluding members of the Association of Professional Engineers of Ontario) in the bargaining unit. However, these cases are the exception rather than the general rule.

18/ Jacob Finkelman, Q.C., Paper delivery to Toronto Centre for Industrial Relations Conference, Dec. 15-17, 1965. (Finkelman is presently Chairman of the federal Public Service Staff Relations Board.)

- 19/ See Chapter III, p. 36 for a discussion of the Saskatchewan amendment. Note the similarity to Section 9(b)(1) of the Taft-Hartley Act which states, in part, that "no unit shall include ...both professional employees and non-professional employees unless a majority of such professional employees vote for inclusion in such unit".
- 20/ While all provincial governments are increasing their financial participation in these areas, only New Brunswick has gone the full limit and assumed complete financial responsibility for schools and hospitals.
- 21/ The Registered Nurses Association of British Columbia has negotiated province-wide agreements with the B.C. Hospital Association since 1959. Local hospital boards and their nursing staffs ratify the master agreement and then sign individual contracts. Nurses are now demanding a similar system in a number of other provinces.
- 22/ The anxiety has been compounded for English-Speaking teachers in Quebec, where centralized bargaining imposed by Bill 25 threatens the differential between French and English systems as well as between regions of the Province.
- 23/ The adjustment may be easier if some flexibility is provided under provincial régimes of collective bargaining. Frankel notes, for example, that a provincial agreement on basic wages and working conditions should not preclude negotiations at the school board level, for the adjustment of local issues (op. cit., p. 88). The bargaining formula in Quebec, however, seems to lack any provision for the adjustment of local issues.
- 24/ One, the Corporation des Ingénieurs du Québec (CIQ), went so far as to write a prohibition on "any form of union activity" into the professional code of ethics (Amendment to the Quebec Engineers Act, Article 3.5 (1959). Rescinded 1964 when Quebec Labour Code legalized collective bargaining and union affiliation for professional engineers). At the other pole of opinion, it may be remembered (Chapter III above), but representing an exception to the general position of engineering associations in Canada, the Association of Professional Engineers of British Columbia tried to write a collective bargaining provision into the Engineers Act. (Proposed amendment defeated in Private Bills Committee of B.C. Legislature 1966.)
- 25/ This dilemma may be compounded when, as is frequently the case, an association executive is composed of a high proportion of management or supervisory personnel. In such a case, moreover, the association would actually be ineligible, as an employer-dominated organization, for certification as a bargaining agent under Canadian labour laws.

- 26/ See John H.G. Crispo, in Collective Bargaining and the Professional Employee. Conference Proceedings, Centre for Industrial Relations, University of Toronto, (Dec. 15-17, 1965) p. 120.
- 27/ This, of course, assumes a bargaining unit confined to members of the same profession.
- 28/ Take for example the case of the Registered Nurses Association of British Columbia which has been the certified bargaining agent for all hospital nurses in the province since 1949. The corresponding association in Alberta has had the right to bargain for nurses groups in Alberta since 1955 and is presently certified as bargaining agent for the nurses in four hospitals. Other nurses in Alberta, as in most other provinces, have preferred to negotiate through their local hospital nursing associations, though they undoubtedly get some assistance from the provincial body. Union affiliation for nurses has been limited to Quebec.
- Provincial associations of teachers negotiate on a province-wide basis in Quebec and New Brunswick and are certified as bargaining agents for local units of teachers in Alberta and Nova Scotia. Teachers who bargain at the school board level in other jurisdictions usually do so through committees of their local teacher associations, sometimes assisted by representatives of the provincial body. Muir notes however, that even where teachers lack legal collective bargaining rights, the statutory requirement to belong to a teachers association as a condition of professional practice has often given these associations de facto status as spokesman for the teachers.
- 29/ Note the recent establishment (March 1967) of a Council of AFL-CIO Unions for Scientific Professional and Cultural Employees. (There is no counterpart in the CLC.) This Council, however, is not confined to exclusive professional unions. It groups all AFL-CIO unions that include this category of workers among their general membership.
- 30/ The all-inclusive unions of municipal employees are frequently a historical carryover from Municipal employees' Associations that existed before the adoption of formal collective bargaining. The latter associations grouped white collar and professionals together.
- 31/ Two exceptions may be noted in the Quebec Civil Service. Doctors and lawyers in the Civil Service have formed their own bargaining units and are not affiliated with the CNTU.
- 32/ The syndicates affiliated with the Fédération des Ingénieurs et Cadres du Québec (CNTU) are: le Syndicat professionnel des ingénieurs de l'Hydro-Québec, le Syndicat des professionnels du Gouvernement du Québec, le Syndicat professionnel des comptables agréés du Gouvernement



du Québec, le Syndicat professionnel des ingénieurs de la Ville de Montréal, le Syndicat des agronomes de la Ville de Montréal, le Syndicat des architectes de la Ville de Montréal, le Syndicat des architectes-paysagistes de la Ville de Montréal, l'Association professionnelle des arpenteurs-géomètres de la Ville de Montréal, l'Association des chimistes professionnels de la Ville de Montréal, le Syndicat des comptables agréés de la Ville de Montréal, le Syndicat des dentistes de la Ville de Montréal, le Syndicat des médecins-vétérinaires de la Ville de Montréal, le Syndicat des professionnels de la Ville de Montréal, l'Association des cadres administratifs de la Cité de St-Léonard, le Syndicat des travailleurs sociaux de la province de Québec.

33/ The law specifies the following as the bargaining agents for the teachers:

1. Provincial Association of Protestant Teachers
2. Provincial Association of Catholic Teachers (English speaking)
3. Corporation des Enseignants du Québec (French-speaking Catholic)

The following are designated as the employer representatives:

1. Quebec Federation of Catholic School Boards
2. Quebec Association of Protestant School Boards

A government representative also takes part in the negotiations.

34/ See Chapter III, pp. 44-45.

35/ Frankel, *op. cit.*, p. 22.

## CHAPTER V

### PROFESSIONAL BARGAINING IN PRACTICE: ISSUES AND METHODS

The last chapter dealt with some of the basic problems that professional workers and their employers must solve in establishing a framework for collective bargaining. This chapter will be concerned with the problems that arise in the bargaining relationship itself. What are some of the major issues that are raised in professional bargaining? What are their implications? How should disputes be settled?

#### Professional Issues

When professional workers and their employers adopt a collective bargaining relationship, the issues that arise include, but may go far beyond, the wages and fringe benefits that are the main concern of other categories of employees. The problem of handling particular professional needs within a collective bargaining relationship is complicated by the following factors.

1. The conflict between "professional prerogatives" and "management rights".
2. The problem of recognizing individual achievement in the framework of a collective agreement.

Professional Prerogatives vs. Management Rights — Not all professional demands constitute a threat to management rights. Provisions for continuing education, sabbatical leave, paid attendance at professional conferences, even additional supporting staff, may be considered as simple cost items and have, in fact, been amenable to negotiation as such. Other demands, however, emphasize normative rather than monetary issues. Because they are

concerned with protecting the professional role and with assuring the conditions and standards of professional performance, these demands, by definition, would place limitations on management prerogatives and discretion. By posing the issue of employee participation in policy decisions, they challenge some strongly held management views and have, in fact, provoked considerable employer resistance. It is precisely these normative demands, however, that have dominated recent professional negotiations.

Some normative demands, by nurses and engineers, for example, have been concerned with protecting the professional role from the incursions of para-professional types (nurses aides, engineering technicians, etc.). 1/ Other demands concern the right of professionals to control the conditions and standards of their professional performance. Thus we find teachers demanding a voice in curriculum planning, classroom size, disciplinary procedure; nurses concerned with patient load, supporting staff, etc., engineers insisting not only on the right to sign their own work but, the ultimate in professional protection, the right to withhold their signature from documents that do not meet professional standards. 2/ Teachers' and nurses' disputes in particular, as well as last year's radiologists' strike in Quebec, have shown that normative demands by professional workers are frequently less amenable to compromise, by either party to the bargaining relationship, than are accompanying monetary issues. With a growing conviction on one side that participation in policy decisions is the essence of professionalism, and a strong resistance on the other to any incursion on management discretion, recent negotiations on normative issues have frequently ended in stalemate.



Individual Recognition in Collective Agreements — The problem of recognizing individual merit and encouraging individual initiative within the terms of a collective agreement is a major issue facing professional workers and their employers in adopting a collective bargaining relationship. The Draft Professional Negotiations Act of the Ontario Steering Committee seeks to obviate this problem by providing for the negotiation of individual contracts within the framework of a basic collective agreement. 2/ This could, in theory at least, allow for substantial variation around the norm on the basis of individual ability and performance.

It is precisely by this method that radio and television artists and actors have protected the recognition of individual excellence within the terms of a collective agreement. Although they are not defined as professionals for the purpose of this study, their experience is relevant to the problem with which we are concerned and may, in fact, suggest a model for some professional bargaining. The actors' union, Association of Canadian Television and Radio Actors (ACTRA), negotiates a basic agreement with the CBC on conditions of employment, minimum wages, fringe benefits, etc., to apply to all its members. The members, in turn, negotiate individual contracts within the framework of this basic agreement. The price at which they sell their services in these personal contracts depends on their own reputation and qualifications. This agreement has provided a successful mechanism for recognizing individual merit while protecting collective interests and might indeed serve as a pattern for certain professional groups. Some caution must be exercised however, in generalizing from ACTRA's experience. It should be remembered that the CBC artists represented by ACTRA work on a free-lance basis; they are not "permanent employees" in the same sense as most of the professional workers that have been considered in this study.

Doctors, perhaps, come closest among the professionals to the free-lance position of these performing artists. While they are not employees in the general sense of the term, medicare legislation, where it exists, places them in a form of employment relationship. In contrast to the performing artists, however, doctors can charge more than the norm only by "opting out" of a collective plan. 4/

While it is theoretically desirable that professional agreements provide for the recognition of individual merit, it should be noted that the issue is not of equal significance for all professional groups. For the majority of professional workers in large scale organizations (e.g., engineers, teachers, nurses) a pay determination policy based on seniority and academic qualifications 5/, with some form of performance assessment for promotion purposes, has usually been considered acceptable. In other cases, research scientists for example, there is more scope for the impact of the individual on the job. In such cases, it has been noted, the recognition of individual performance must be assured.

Where it is understood that differences in performance by professional workers will be reflected in financial rewards and career pattern, the method of performance appraisal becomes an issue in itself. A number of alternatives were encountered in my research on collective bargaining by different professional groups. Three examples may be cited by way of illustration.

1. In the collective agreement between the Quebec government and its professional civil servants, for example, statutory increases based on seniority and academic qualifications are the general rule. However, the contract provides for doubling the statutory increase

in recognition of particular merit on the recommendation of an immediate superior. Periodic performance appraisal for this purpose is provided in the collective agreement. Promotions, on the other hand, are based on examinations and recommendations combined. 6/

2. At the National Research Council, where individual differences between research scientists may be sufficient to transform the content of their original jobs, the evaluation of individual merit is frequently based on a vote of the peer group itself. There seems no reason why a collective agreement should preclude the continuation of this method.
3. Finally, we may note an interesting case where the recognition of individual differences is not provided in the terms of the contract but has been implemented by informal agreement within the professional group itself. Under their agreement with the Quebec government, all radiologists in hospital employment receive a uniform unit fee regardless of experience or ability. In some hospitals, however, the radiologists contribute a part of their fees to a special "pool" to supplement the remuneration of their "senior" members.

#### Dispute Settlement

Because of a general concern with "appropriate professional behaviour", the problem of dispute settlement is perhaps the most serious dilemma facing professional workers when they adopt a collective bargaining relationship. Some professionals would, in fact, voluntarily renounce the strike weapon in the interest of "professional" behaviour 7/, but others maintain, and



have shown by their actions, that the sanction of the work stoppage is an essential ingredient of their bargaining strength. 8/

The Public Interest Factor — While formal public policy on the right to strike for professional workers differs between jurisdictions, there is a considerable degree of similarity in underlying philosophy. Indeed, one can generalize by saying that official concern with and intervention in dispute settlement in all jurisdictions varies directly with the degree of public interest in a particular professional service. When the nature of the professional function is such that a withdrawal of service would seem to jeopardize a "vital public interest" 9/, the problem transcends the ordinary considerations of "professionalism" and, from the public point of view at least, may take on the character of a moral issue. The moral issue is complicated, however, when professional workers withdraw their services to protest the erosion of professional standards rather than for financial reasons. Nurses, for example, have justified strike action, in the public interest, to protest unmanageable patient loads or the administration of medication by unqualified supporting staff.

Because of the high component of public interest in a number of professional services, health and education for example, sensitivity to public pressure, by both parties to a dispute, may often be sufficient to produce a settlement. It remains a central problem of public policy, however, to determine the extent and nature of intervention in the event that negotiations reach an impasse.

Government Intervention — Legal restrictions on strike action for professional workers have taken three main forms:

1. By virtue of their formal exclusion from labour relations legislation, some professionals are, in fact, automatically precluded from the legal right to strike, whether or not their particular professional role is related to a vital public interest. 10/
2. Even in jurisdictions where collective bargaining is permitted by law, public policy may restrict the right to strike in the case of specific professional groups, such as teachers and nurses, on the grounds of public interest. In such cases, compulsory binding arbitration is provided as an alternative to the strike weapon when negotiations reach an impasse. 11/
3. Finally, even where the law itself provides a general right to strike, ad hoc measures, in the form of injunctions 12/ or emergency legislation 13/, have been used to end particular labour disputes.

While public policy limitations on the right to strike are commonly justified in terms of vital public interest, some reservations may be noted. The following points illustrate the objections I encountered.

1. Some observers note the inconsistency of a public policy which purports to grant full collective bargaining rights to a group of workers but removes their most powerful bargaining weapon. Thus they insist that it is incumbent on the public authority to provide a satisfactory alternative for dispute settlement, if and when the public interest seems to demand a restriction on the right to strike. No guidelines presently exist to assure that compulsory arbitration will do justice to professionals, or others defined as "essential"

workers, when the strike weapon is removed. The problem is currently the subject of much debate, but the question is easier posed than answered.

2. Some experts feel that arbitration provisions, by their very nature, inhibit negotiated settlements. They note that ultimate recourse to an arbitral authority can result in an abdication of responsibility by the parties to the dispute, a reduction in their efforts to achieve a negotiated settlement, and a total frustration of the bargaining process. 14/
3. Finally, it should be noted, as a practical matter, that the effectiveness of a strike prohibition is directly related to the possibility of its implementation. Experience proves that legal provisions do not necessarily determine actual practice. Study sessions, coincidental resignations, black-listing of employers are a few of the mechanisms that have been used by professionals to circumvent legal prohibitions on strike action. In some cases, mass resignations of teachers for example, it has been suggested that the alternative mechanism may be more permanently damaging than the strike itself.



### REFERENCES

- 1/ Nurses have been concerned with a two-pronged threat to their professional status: a) the assignment of menial non-nursing tasks to qualified nurses and, b) the performance of professional duties by untrained aides.

Engineers face similar problems re work assignment but, in the public sector at least, they have made some progress in protecting the professional role. The engineers at the City of Montreal may have set a precedent in this respect. Article 22.03 of their first collective agreement is meant to assure them of work appropriate to their professional competence: "For the duration of the present contract, engineers will be assigned to positions whose nature demands the technical knowledge of an engineer".

Soon afterwards, a similar clause was negotiated by the engineers in the Quebec Civil Service while a joint union-management committee at Ontario Hydro expressed the view that "Hydro's present efforts could be extended to increase the level of responsibility of engineering jobs by delegating lower skill work content to clerks and technicians, where applicable". (See The Case of Engineers appended to this study, p. 230.)

- 2/ This right is provided in the contracts of the engineers' syndicates at the City of Montreal, Government of Quebec and Hydro-Quebec.

- 3/ See Chapter III, pp. 41-42.

- 4/ The ability to practise outside a medicare plan at a higher fee than the norm is, of course, dependent on a particular professional reputation. Under flexible "opting out" provisions of the Saskatchewan medicare legislation, a patient only pays the difference between this higher fee and the general tariff provided under the Act. The recent Castonguay Report on prospective medicare legislation in Quebec, on the other hand, recommends that no public funds be available for any part of the fee of a doctor practising outside the general plan.

- 5/ J.D. Muir, Collective Bargaining by Canadian Public School Teachers, a Task Force study, showed that teachers' salaries are most commonly determined by years of academic training plus years of teaching experience.

In my own study of Engineers, I noted an interesting plan for the protection of professional seniority in the industrial context. Under the collective agreement between the syndicate of engineers and Hydro-Quebec, vacations are no longer based on years of service to the Company, but on years since graduation, less than eight years since

graduation, two weeks; from eight to twenty years since graduation, three weeks. (Article 23.) This clause breaks new ground by recognizing professional seniority over company seniority.

- 6/ The combination of competitive exams and personal recommendations forms the basis of a new Career Plan for professionals employed in the Quebec Civil Service. Though not yet tested by experience, the Plan is intended to provide the "technical cadres", e.g., engineers employed in the practice of their profession, a parallel path of advancement with administrative personnel. For details see The Case of Engineers appended to this study, pp. 196-197.
- 7/ For example, the Ontario Steering Committee specifically precludes strike action for any professional employee. The Draft Professional Negotiations Act, Sec. 4 provides for binding arbitration of all unresolved disputes. This is also the position taken by the Professional Institute of the Public Service of Canada re professional bargaining under the PSSRA. At its recent biennial convention, the Institute voted to recommend the arbitration method to the occupational groups for which it hopes to bargain. (Applications for certification are presently before the Public Service Staff Relations Board.)
- 8/ Strikes by doctors, nurses, teachers, engineers, etc., are evidence of this attitude.
- 9/ The crucial question of "public interest" defies a clear cut definition and is not confined to the professional category. In the case of professional workers, it should be noted, the potential impact of withdrawal of services varies not only between but within professional groups. Compare, for example, the public interest function of the operating room nurse and the nurse-receptionist in a doctor's office, the engineer responsible for the distribution of power and the engineer producing outboard motors. There is also the question of timing. Thus it is generally agreed that a withdrawal of teacher service at the beginning of the school year is less damaging than one on the eve of final exams. The examples could be multiplied ad infinitum.
- 10/ See Chapter III, pp. 33-34 for professional exclusions from labour relations legislation.
- 11/ The following legislation, for example, specifically restricts the nurses' right to strike:
- Ontario: Hospital Labour Disputes Arbitration Act (1965)  
Newfoundland: Hospital Employees Act (1966)  
Saskatchewan: Emergency Disputes Act (1966)  
Alberta: Section 99, Labour Relations Act

The first two prohibit all strikes and lockouts in cases involving hospital employees and provide for compulsory and binding arbitration of unresolved disputes. Under the Saskatchewan and Alberta Acts, on the other hand, the proscription on the strike is not automatic; the Government has the discretion to declare an emergency and prohibit or terminate a strike in specifically defined areas, including hospital services. The recently proclaimed B.C. Mediation Commission Act provides for similar Cabinet discretion and is thus likely to preclude strikes by nurses in that province.

The exclusion of nurses from the labour relations acts still precludes legal strike action in Prince Edward Island and New Brunswick but the implementation of the Frankel Report could change the situation in the latter province. In the remaining provinces, nurses are covered by general labour legislation, which includes the right to strike.

In the case of teachers, compulsory binding arbitration is provided under the collective bargaining provisions of the School Acts in British Columbia and Manitoba. As there is no statutory provision for collective bargaining for teachers in Ontario, Prince Edward Island or Newfoundland, or in New Brunswick, pending the implementation of the Frankel Report, there can be no legal strikes in these provinces. General labour legislation in Alberta and Quebec allow strike action. As there is no statutory provision against strike action in Saskatchewan and Nova Scotia, it may be assumed that such action is permitted in these provinces too.

12/ Some professional employees have noted that the practical value of their right to strike under the Quebec Labour Code is actually somewhat limited. Section 99 of the Code empowers the Government, if it so elects, to obtain an 80-day court injunction against a strike in certain public services, including schools and hospitals. Some teachers' groups were in fact, forced back to work by this means during the 1967 strike. It should be noted, however, that Section 99 only gives the Government machinery to suspend a strike; there is no compulsory arbitration at the end of the 80-day period.

13/ For example, Bill 25 to end the teachers' strike in Quebec (1967).

14/ For a discussion of this point, see Dr. A.W.R. Carrothers in Collective Bargaining and the Professional Employee. Conference Proceedings, Centre for Industrial Relations, University of Toronto, (Dec. 15-17, 1965), pp. 19-25.



## CHAPTER VI

### PUBLIC POLICY CONSIDERATIONS

With a growing number of professional workers in the labour force, and a significant proportion of these in paid employment, the issue of collective bargaining for the professional segment has become a topic of considerable current interest. So far, however, it has been marked more by controversy than by consensus.

While some labour organizations are presently looking to white collar and professional groups as a potential source from which to bolster sagging union membership, many professional workers as well as their professional associations, employers, and the general public, continue to regard trade union affiliation, or collective bargaining of any sort, as incompatible with the professional position. The management orientation of the traditional professional groups in particular, and the generally responsible nature of professional functions and duties, have, by and large, precluded the identification of the professional segment with non-professional workers in the labour force. At the same time, however, some of the problems faced by professionals working as salaried employees in large scale organizations are similar to those of their non-professional confrères. It is these employment problems, and the inability of many professional workers to solve them on an individual basis, that are stimulating the pressure for collective action, at least in some professional groups.

Apart from a diminishing number of cases where potential job mobility may still be used as an instrument of individual bargaining power, or where there is the exceptional condition of a close working relationship between

professionals on the employee and management sides (as noted to be the case in some universities), collective action of some sort seems to be the most likely solution to collective problems. However, the adoption by professional workers of collective bargaining on the industrial pattern poses a number of problems. Some of the problems, such as the recognition of individual initiative and merit and the protection of professional standards and prerogatives, fall within the purview of the collective agreement. As such, their solution rests with the parties to the bargaining relationship and does not directly concern the public authority. Because of the particular mandate of the Task Force that commissioned this study, this summary chapter will be confined to issues that bear most directly on public policy.

### Collective Bargaining and Professional Ethics

First, there is the perennial question: Is collective bargaining compatible with professional ethics? An affirmative answer is indicated, but with certain qualifications.

While some of the liberal professions have objected to collective bargaining on the grounds of its incompatibility with professional ethics, these same professions have set precedents of collective action to protect the income of their self-employed members. Any scale or tariff of fees agreed to by a professional group does precisely that. If members of a professional group can act in concert, as they do, to protect their income as self-employed persons, it seems illogical that employed members of the same profession should be denied similar rights to secure their income and working conditions.

There is one caveat, however. While I do not see any moral objection to collective bargaining per se, provided, of course, that this is the wish of the professional workers concerned, it seems imperative that the bargaining methods be compatible with professional responsibility. This raises two related issues: the method of dispute settlement and the choice of the bargaining agent.

### Dispute Settlement

The method of dispute settlement is probably the crux of the moral issue facing professional workers when they decide to bargain collectively. It is also a major issue in the area of public policy where, it should be remembered, the enforceability, as well as the desirability, of intervention must be considered.

Because the potential impact of a withdrawal of services varies both between and within professional groups, the question of professional responsibility in re dispute settlement, and of public intervention when negotiations reach an impasse, must be related to the public interest aspect of a given professional function. While recognizing the right to strike as an essential ingredient of the bargaining process, some restrictions are indicated, by private restraint or public intervention, where a vital public interest is involved.

Assuming that a work stoppage by a professional group would be contrary to the public interest, and here the problem of definition is self-evident, the moral or ethical question, as Dr. Carrothers has observed, is "not whether collective bargaining as such is improper but whether a reasonable substitute can be devised for the sanction of the right to strike." 1/ It certainly seems incumbent on the public authority to assure a fair deal to



any group of workers, professionally trained or otherwise, from whom it withdraws the right to strike on the grounds of public interest. It has been suggested that negotiated settlements in related occupations and/or selected industries might provide guidelines for arbitration awards in cases where the ultimate bargaining weapon has been removed. 2/ It is not certain, of course, that the professional workers and employers concerned would find the comparisons appropriate.

While some professionals would undoubtedly renounce the strike weapon as "unprofessional" under any circumstances, others maintain that the right to strike must be kept as a bargaining weapon. I believe that this decision should be left to the professional workers concerned in all but exceptional circumstances. Unless the withdrawal of professional services would jeopardize a vital public interest, I feel that no legal restriction on the right to strike is indicated.

#### The Bargaining Agent

The choice of a bargaining agent is closely related to the issue of professional ethics. I would rule out professional associations with licensing authority on the grounds that it would be undesirable to combine in one body the public interest function of licensing with the private interest function of bargaining. The possibility, however remote, of restricting numbers to improve self interest is too great a public risk. The inclusion of employer and employee members in a single professional association is another reason precluding the choice of the association itself as the bargaining agent for employee groups. The conflict of interest that this could produce is self evident.

Conflicts of interest might be avoided and the ethical problem resolved if a separate negotiating body, with or without trade union affiliation, were designated as bargaining agent. While some prophets of doom deplore the possibility of trade union affiliation, in my opinion this is not a major problem. I have already noted that the method of dispute settlement is the crux of the moral issue where essential services are at stake, and experience shows that organized labour has no monopoly on strike action.

Engineers and nurses who struck in Quebec were, indeed, affiliated with the CNTU; teachers and radiologists were not. And the doctors in Saskatchewan, it may be remembered with interest, acted as members of the Medical Association of that province, not affiliates of the CNTU or the CLC, when they withdrew their professional services.

One complicating factor may be noted in considering the issue of trade union affiliation. Where an organized group of salaried professionals has supervisory or managerial authority over an organized group of non-professional workers employed in the same enterprise, and where each group forms a separate bargaining unit, the desirability of both being affiliated with the same labour "centrale" is open to serious question.

#### Determining the Appropriate Bargaining Unit

Two distinct problems are involved in defining the bargaining unit. One is the issue of craft versus industrial organization, the other relates to the demarcation line between labour and management functions. In both cases, a certain degree of flexibility seems desirable.

In considering the professional basis of organizing bargaining units, I noted that the protection of craft rights was to a large extent a

function of size. While there is undoubtedly a legitimate case for protecting the distinctive interests of organized professional groups where they are employed in significant numbers, care must be taken that this does not result in an unmanageable proliferation of bargaining units.

Rigidities in the law should be avoided, whether they restrict the bargaining unit to members of a single profession or whether they force professional workers, against their will, into multi-professional or all inclusive bargaining units. A flexible system, it was suggested above, would provide professional workers with an element of choice as to the professional composition of their bargaining unit, subject to the approval of labour relations boards.

The establishment of a demarcation line between labour and management functions has presented more serious problems in the case of professional workers than for the mass of non-professional employees for whom our Canadian labour legislation was originally envisaged. In view of the responsible nature of many professional functions, a relatively high proportion of salaried professionals find themselves excluded from the definition of "employee", and consequently from legal collective bargaining rights, under present labour legislation. While professional workers claim that a rigid definition of employee status restricts their bargaining unit and weakens their bargaining strength, management spokesmen point out the conflicts of interest that would result if professional workers with supervisory functions sat on the employee side of the bargaining table.

The dilemma is that of assuring certain fundamental rights of association to a particular category of employees without unduly undermining the division of authority on which the administration of large scale enterprise



depends. While it is evident that some demarcation line must be maintained between supervisors and supervised in defining bargaining units, a more flexible definition of "employee" status might set this line at a higher managerial level than is presently the case.

It has been suggested that a logical dividing line would exclude from a bargaining unit at least those professionals exercising managerial or supervisory functions that could affect the hiring, firing, promotion or discipline, in other words the career opportunities, of other professional workers. To the extent, however, that this implies the granting of collective bargaining rights, in separate bargaining units, to professionals exercising supervisory authority over other categories of workers, it would require a very flexible interpretation, if not an actual revision, of existing labour legislation. It is precisely because of the restrictive nature of present labour laws, particularly in defining "appropriate bargaining units", that some proponents of collective bargaining for professional workers have suggested a separate legal framework.

#### The Legal Framework of Collective Bargaining for Professional Employees

I have already noted the proliferation of legislation that would be entailed and the "whipsawing" that might occur if each professional group were to have its own collective bargaining Act. The alternative of an all-inclusive professional bargaining statute presents fewer complications. It remains questionable, however, whether professional workers constitute such a distinctive entity, with such divergent needs from the rest of the labour force, as to require a separate collective bargaining statute. General labour legislation, incorporating some special provisions for professional

workers (including the right to opt out of collective bargaining, or to do so as a separate group) may be sufficient. In view of the divergent interests and changing attitudes within the professional segment, flexible legislation rather than separate legislation is the important consideration. Moreover, because of the different circumstances of employment for each professional group, and even for members of the same profession, considerable discretionary power in labour relations boards seems unavoidable, particularly in determining bargaining units. This leads to another problem, the composition of the boards themselves.

It is evident that the composition of labour relations boards has not reflected the changing character of the labour force in recent decades, particularly the considerable number of professional workers who are interested or engaged in collective bargaining. While strong arguments have been made for professional representation either on existing or separate boards, the heterogeneous nature and diverse interests of the professional category could complicate the selection of the professional representatives. Consideration might be given to the establishment of public boards which, by avoiding the labour-management dichotomy of the present structure, could eliminate the problem of inter-union rivalry on existing boards and satisfy the needs of the professional workers with whom this study is concerned.

#### Negotiations by Non-Salaried Professional Workers

My terms of reference, and those of the Task Force that commissioned this study, have restricted my attention to the problems of professional workers who, by virtue of their status as salaried employees, could conceivably be covered by labour legislation. With the introduction of

widespread medicare programs, however, public authorities in a number of jurisdictions will soon be negotiating wages and working conditions with an important group of non-salaried professionals to whom the labour legislation does not apply. Some consideration might be given to providing a legal framework to regulate these negotiations. Perhaps a collective bargaining provision might be included in the social security legislation itself.



REFERENCES

- 1/ A.W.R. Carrothers, Collective Bargaining and Professional Employee. Conference Proceedings, Centre for Industrial Relations, University of Toronto, (Dec. 15-17, 1965), pp. 17-18.
- 2/ For example, in considering the case of voluntary binding arbitration for certain groups of civil servants, Robert Sauvé suggested that "as far as the monetary aspects are concerned the arbitrator would use a special set of criteria.... He could use the wages of five leading industries in the bargaining sector and a cost-of-living index as an automatic basis for increases, etc." See Emerging Sectors of Collective Bargaining, ed. by P. Weinberg and F. Bairstow. Proceedings of 18th Annual Conference, McGill Industrial Relations Centre, (April 2-3, 1968), p. 12.

BIBLIOGRAPHY

A. GENERAL REFERENCES

BOOKS, ARTICLES, CONFERENCE PROCEEDINGS

- Briant, Peter C. "The Professional Employee", in Human Values and Technological Change, Proceedings of 17th Annual Conference, McGill Industrial Relations Centre, May 16-17, 1967. (ed. by P. Weinberg and F. Bairstow) pp. 73-92.
- Cardin, Jean-Réal "Organisation professionnelle et syndicalisme", Relations industrielles, Vol. 16, No. 4, (octobre 1961) pp. 427-431.
- "Réflexions sur nos corporations professionnelles" Relations industrielles, Vol. 17, No. 3, (juillet 1962) pp. 227-241.
- "La loi des relations ouvrières codifie la division des classes", La Presse, 25 novembre, 1963.
- "Une montée inéluctable en économie moderne", Cadres, Vol. I, No. 6, (novembre 1964), p. 7.
- "Syndicats de cadres", Maintenant, No. 36, (décembre 1964), p. 415.
- "Le droit d'association, son extension, ses limites", Le Code du travail du Québec 1965, XXe Congrès des relations industrielles, Presses de l'Université Laval, Québec, 1965.
- "Droit Nouveau", Maintenant, No. 42, (juin 1965) p. 205.
- "Le Code du travail: deux ans d'expérience", Relations industrielles, Vol. 22, No. 3, (juillet 1967)
- Chartier, Roger "Le syndicalisme de cadres et la législation québécoise du travail", Relations industrielles, (Université Laval), Vol. 20, No. 2 (1965).
- "Supervisory and Managerial Unionism under Quebec Labour Legislation", The Canadian Personnel and Industrial Relations Journal, Vol. 13, No. 5 (Nov. 1966).

The Management of Professional Employees,  
Industrial Relations Centre, Queen's University,  
Reprint Series No. 10, 1968.

Crispo, John H.G. (ed)

Collective Bargaining and the Professional Employee, Conference Proceedings, University of Toronto Centre for Industrial Relations, Dec. 15-17, 1965.

DBS

1951 Census, Vol. IV Tables 4, 21, 23  
1961 Census, Vol. III Part 2, Table 15  
Bulletin 3, Tables 17 and 20  
Bulletin 4, Table B-4

Goldenberg, Shirley B.

"L'Extension de la Formule Syndicale à des Secteurs non Traditionnels", Le Syndicalisme Canadien: Une Réévaluation, Département des Relations Industrielles de l'Université Laval, Québec, 1968, pp. 145-169.

Hébert, Gérard (S.J.)

Les Syndicats de Cadres, (deux articles),  
Relations, avril et mai, 1968.

Humblet, J.E.

"Les cadres et le syndicalisme: vingt ans d'évolution", Revue de Travail, (novembre, décembre 1956) pp. 1685-1698.

Les Cadres d'Entreprises: France-Belgique-Royaume Uni. Editions Universitaires, Paris, 1966.

ILO

Problems of Non-Manual Workers, including Technicians, Supervisory Staff, etc., Report VII, International Labour Conference, 43rd Session, Geneva, 1959.

Non-Manual Workers: Problems and Prospects, Report of the Director-General, Part I, International Labour Conference, 51st Session, Geneva, 1967.

Kassalow, Everett

White Collar Trade Unions: Contemporary Developments in Industrial Societies, Chicago: University of Illinois Press, 1966.

Kleingartner, Archie

Professionalism and Salaried Worker Organization, Industrial Relations Research Institute, University of Wisconsin, 1967.



Peitchinis, S.G.

"Age, Employment, Income Profiles of Professional Workers in Canada", Unpublished paper, Department of Economics, University of Western Ontario, London, Ontario, 1967.

Syndicalisme et organisation professionnelle, 37ième semaine sociale du Canada, Trois-Rivieres, Ed. Bellarmin, Montréal, 1960.

Weinberg, P. and  
Bairstow, F. (ed)

Emerging Sectors of Collective Bargaining,  
Proceedings of 18th Annual Conference, McGill  
Industrial Relations Centre, April 2-3, 1968.

### LEGISLATION

Labour Relations and Public Service Acts—all provinces and federal.

Professional Syndicates Act, Quebec.

Separate Professional Acts: teachers, nurses, engineers, etc.,  
all provinces.

### PROPOSED LEGISLATION

Registered Nurses' Association of Ontario.

Brief presented to the Hon. Matthew B. Dymond, M.D.,  
Minister of Health, Province of Ontario in support of special legislation  
entitled the Nurses' Collective Bargaining Act, 1965.

Steering Committee on Negotiation Rights for Professional Staffs.

Brief in support of special legislation entitled Professional Negotiations  
Act 1966 to the Honourable John P. Robarts, Prime Minister and President  
of the Council of the Government of Ontario, April 1966.

### B. READINGS ON SELECTED PROFESSIONAL GROUPS

See Task Force Study by J.D. Muir for bibliography on collective bargaining  
by Public School Teachers. Also, The Case of the Engineers (appended  
to the study) for bibliography relevant to the Engineering Profession.

A detailed bibliography on collective bargaining for Nurses has been  
compiled by the Canadian Nurses' Association: Selected References on  
Social and Economic Welfare, Revised Edition, March 1968. In addition to  
publications of a general nature, this bibliography includes articles on  
collective bargaining problems and experience by Nurses in various Canadian  
provinces.

While most of my research on other professional groups was done by personal interviews, correspondence, and the examination of unpublished documents, a few selected references may be noted.

#### PROFESSIONALS IN THE CIVIL SERVICE

Frankel, Saul J.

Staff Relations in the Civil Service, Montreal: McGill University Press, 1962.

Report of the Royal Commission on Employer-Employee Relations in the Public Services of New Brunswick, 1967.

Heeney, A.D.P.

Report of the Preparatory Commission on Collective Bargaining in the Civil Service. Ottawa: Queen's Printer, 1965.

Professional Public Service, various issues 1966-67.

The Civil Service Review, various issues 1966-67.

#### DOCTORS

Badgley, Robin R.  
and Wolff, Samuel

Doctors' Strike: Medical Care and Conflict in Saskatchewan. Toronto: Macmillan, 1967.

Cardin, Jean-Réal

"Le corps médical et la nouvelle société québécoise". Relations industrielles, Vol. 21, No. 1, 1966, pp. 3-17.

Hamel, Gérard, M.D.

"Doctors and Collective Bargaining", Paper presented to 18th Annual Conference, McGill Industrial Relations Centre, April 1968.

Le Médecin du Québec, various issues, particularly February and March, 1967.

Premier Mémoire présenté à la Commission d'Enquête sur la Santé et le Bien-Etre Social par: l'Association des médecins du service de santé de la ville de Montréal; l'Association professionnelle des chirurgiens-dentistes du Québec; l'Association professionnelle des opticiens d'ordonnances du Québec; l'Association professionnelle des optométristes du Québec; l'Association professionnelle des pharmaciens du Québec; la Fédération des omnipraticiens du Québec.

"A right to strike? Doctors' viewpoints on questions". Canadian Doctor, March 1966, pp. 61-67.

"Collective bargaining: News and views." Canadian Medical Association Journal, January 1966, pp. 51-52.

"Get set for bargaining Ontario doctors urged." Canadian Doctor, June 1966, pp. 43-46.

"Doctors back labour-style collective bargaining." Canadian Doctor, July 1967, pp. 7-9.

#### UNIVERSITY PROFESSORS

- Bissell, Claude T. "A Proposal for University Government at University of Toronto." Address to Annual meeting of the Association of Universities and Colleges in Canada, Ottawa, Oct. 27, 1966. Published in CAUT-Bulletin, Dec. 1966.
- Duff, Sir James and Berdahl, Robert O. University Government in Canada, Report of a Commission sponsored by the Canadian Association of University Teachers and the Association of Universities and Colleges of Canada. Toronto: University of Toronto Press, 1966.
- Freedman, Mr. Justice Samuel "University Government", Address to the Council of the CAUT, June 15, 1964. Published in CAUT-Bulletin, October 1964.
- Robinson, E.J. "Would Collective Bargaining Increase Academic Salaries?" CAUT-Bulletin, April 1968, pp. 70-77.
- Rowat, Donald C. "Democracy in the University Community", CAUT-Bulletin, April 1966.
- Syndicat des Professeurs de l'Université de Montréal (SPUM), Bulletin (Mimeographed), various issues 1966-1968.
- SPUM Schéma de convention collective entre l'Université de Montréal et le Syndicat des professeurs de l'Université de Montréal (unpublished).
- Weber, Arnold R. "Academic Negotiations: Alternatives to Collective Bargaining". Report presented at the Plenary Session of the 22nd National Conference on Higher Education, sponsored by the Association for Higher Education, Chicago, March 6, 1967.
- Whalley, George (ed.) A Place of Liberty: Essays on the Government of Canadian Universities, Toronto: Clarke, Irwin & Co. Ltd., 1964.





## APPENDIX A

### THE CASE OF THE ENGINEERS

This study of Professional Engineers contains some of the original research material on which I based my analysis of the problems which professional workers and their employers face when they adopt a collective bargaining relationship.

The research on the Engineers was completed in December 1967 and submitted to the Task Force on Labour Relations in June 1968.

TABLE OF CONTENTS

	<u>Page</u>
PART I      SALARIED ENGINEERS: POTENTIAL RECRUITS TO COLLECTIVE ACTION?	114
The Problem of Definition Employment and Income References	
PART II     COLLECTIVE BARGAINING: LAW AND PRACTICE	123
Legislation Affecting Professional Engineers Collective Bargaining Experience and Practice References	
PART III    THE QUEBEC EXPERIENCE	136
A. Prelude to Professional Unionism	
The Peculiarities of the Quebec Context The Evolution of Collective Action, 1944-1963 Major Protagonists in the Debate: Their Role in the Early Sixties	
B. Professional Unions and Collective Bargaining	
The Private Sector: Company Unions The Public Sector: CNTU	
References	



	<u>Page</u>
PART IV      THE ONTARIO EXPERIENCE	208
Collective Bargaining under Legislation, 1943-1948	
Exclusion of Professionals from Labour Legislation, 1948	
The Fight for Bargaining Rights, 1948-1964	
A New Approach: Separate Legislation	
Collective Bargaining: The Present Picture	
References	
 PART V      THE EXPERIENCE OF THE ENGINEERS: AN EXAMPLE OF THE PROBLEMS WHICH PROFESSIONAL WORKERS AND THEIR EMPLOYERS FACE WHEN THEY ADOPT A COLLECTIVE BARGAINING RELATIONSHIP	 248
The Case of Collective Action	
Impediments to Collective Action	
Collective Bargaining Problems	
References	
 APPENDIXES	 261
A-1    Employment Status, Age and Income, Occupational Mobility	
A-2    FICQ: Affiliated Syndicates and Membership Statistics	
A-3    Sample Organization Chart: City of Montreal	
 BIBLIOGRAPHY	 271

PART I

SALARIED ENGINEERS:  
POTENTIAL RECRUITS TO COLLECTIVE ACTION?

The numbers explosion that has characterized the professional segment of the Canadian labour force in the postwar years has hit the engineering profession with a vengeance. Census statistics show a growth in the engineering classification 1/ from 27,036 in 1951 to 43,062 in 1961, an increase of 59%. 2/ As the overwhelming majority (95%) of this rapidly expanding occupational group is in "paid employment", 3/ it is no wonder that it would be considered as a source of potential recruits by proponents of collective bargaining and as an area of research interest by students of industrial relations.

Legal restrictions, employer resistance, and the reluctance of the profession itself have limited the practice of formal collective bargaining to a small minority of professional engineers. The experience of this minority, however, may be of considerable general interest as it illustrates a number of the problems which professional workers and their employers face when they adopt a collective bargaining relationship.

This chapter will introduce the subject with an operational definition of the professional engineer and a brief discussion of his employment status and relative financial position. The following chapter will deal with the legal framework in which he practices his profession and the extent to which he has turned to collective action to solve the problems of the employment relationship. The rest of the paper will be devoted to the history and practice of collective bargaining by professional engineers in Quebec and Ontario.

### The Problem of Definition

The definition of engineer has been, and continues to be, a matter of considerable controversy. Many employers, as well as technicians and graduates of other disciplines who are doing engineering work, favour a functional definition which would permit the hiring, as engineers, of all persons performing engineering functions, whether or not they possess the educational qualifications required for licensing under a provincial Engineers Act. To do otherwise, they maintain, would be destructive of individual initiative and a contravention of management rights. As one would expect, this view is vigorously opposed by most licensed engineers, and particularly by the provincial engineering associations (the licensing bodies). These insist that the practice of hiring unlicensed personnel as engineers is not only detrimental to the professional status and economic well-being of the graduate engineer, but contrary to the public interest.

To the proponents of collective bargaining, the matter of definition creates a further problem. They point out how difficult it is to define the limits of a bargaining unit for professional engineers when non-engineers and engineering technicians are hired, along with them, for engineering work. This problem can, in fact, frustrate the establishment of a collective bargaining relationship, 4/ particularly in Quebec, where the law presently restricts the bargaining unit to members of a single professional group. 5/

For the purpose of this study, a "professional engineer" will be defined as one who is doing engineering work (as specified in provincial



Engineers Acts) and who (1) has been accorded the status of professional engineer by his province's licensing body,

and/or

(2) has a university degree in engineering.

Part (1) of this definition includes licensed graduates and registered non-residents 6/ as well as some high school graduates who have fulfilled the years of experience required by a provincial engineering association and have passed special qualifying examinations. Part (2) covers non-registered engineering graduates, particularly foreigners, some of whom may not fulfill the citizenship requirements for licensing under a provincial Act, but who may be employed in engineering work and included in bargaining units. 7/

The Canadian Census distinguishes four main divisions in its Engineering classification: Civil Engineering, Mechanical Engineering, Electrical Engineering, Chemical Engineering. 8/ A breakdown by field of specialization, however, would serve no useful research purpose for the present study.

#### Employment and Income

The recent interest in collective action by some professional workers has been related among other things, to their growing numbers in paid employment, to dissatisfaction with their financial position (both absolute and relative), and to an inability to improve their position on their own initiative.

Employment Status: the crisis of individualism - Although the proportion of professional engineers in "paid employment" did not change

appreciably between 1951 and 1961 (about 95% of the total engineering group listed in the Census classification), their actual number increased significantly from 26,062 to 41,193. 9/ To the student of industrial relations, it is clear that the growth in absolute numbers of salaried engineers, combined with a general economic trend toward concentration of employment in large scale bureaucratic organizations, presents a challenge to the personal relationships and individual initiative that have become the hallmark of private professional practice. The resulting frustration may be compounded when the force of numbers and limited mobility restrict the individual's capacity to improve his position and to deal with his objective problems, particularly financial ones, on his own initiative.

The Income of Salaried Professional Engineers: a case of relative deprivation? - What is the financial position of the professional engineer in "paid employment"? And, even more important psychologically, particularly to the proponents of collective action, what is his financial position relative to his key reference groups—to members of his own profession in managerial positions, to self-employed professional engineers and, most frequently cited, to unionized non-professional workers?

While caution must always be exercised in interpreting statistical averages, particularly with reference to income, certain overall patterns may be noted. The following comparisons are cited most frequently as instances of relative deprivation and as a justification for collective action.

First there is the comparison between salaried engineers who practise their profession and those who are employed in an administrative capacity. Proponents of collective bargaining challenge management's claim that "parallel paths" of advancement are available to engineering graduates, whether they choose to practise their profession as salaried employees or to climb the administrative ladder. They insist that the opportunity to advance in the practice of the profession is limited in Canada, particularly in Canadian subsidiaries of American companies, as so much of the original engineering work in these companies is done in the United States.

Income and mobility statistics seem to confirm the claim that the "parallel path" of advancement through professional practice, if it exists at all, is a narrower and shorter one than the road to the executive suite. For example, a sample study conducted by the Department of Labour in 1961 shows higher median salaries for graduate engineers performing executive and administrative functions than for those who were employed to practise their profession as such. The median annual salary rate for graduate engineers in Research and Development was \$8,150, in Field Research it was \$8,200, in Testing, Inspection and Laboratory Services, \$7,350, Teaching, Instruction and Extension Work \$7,750, while by far the highest figure, \$10,800 was for engineers employed in Executive and Administrative Functions. 10/

The same study shows that the engineer who remains as a salaried employee in the practice of his profession will approach his maximum earnings relatively early in his professional life—by about the age of forty. 11/ If he wishes to increase his income substantially beyond this point, he may be forced to compromise his professional practice and enter the administrative hierarchy. This is supported by a study of age, employment and



income profiles of professional workers in Canada, in which it is shown that engineers have a relatively high rate of mobility out of their profession beyond the age of forty, as compared with other professional groups. 12/ While this mobility has been explained by the financial attraction of administrative and executive positions, proponents of collective bargaining point out, with reason, that the senior administrative positions are limited in number and are no answer to the financial aspirations of the majority of professional engineers. For this majority, they maintain, the only hope is to improve the conditions of their present job.

This argument is reinforced by the additional point that job mobility within the profession, the traditional bargaining weapon of the salaried engineer, is also becoming increasingly difficult as a means of improving income. It was noted, for instance, that the similarity in salary scales between companies reduces the chance that a change in jobs would improve one's financial status. Furthermore, the modern trend toward professional specialization has produced the phenomenon of "trained incapacity", effectively precluding professional mobility and freezing the individual in his job. For example,

The experience gained in telephone engineering is not readily marketable, so that an engineer with many years' service becomes a 'captive' employee. In addition, the 'hands off' policy followed by telephone companies prevents free movement within the telephone industry. 13/

Objective statistics show that the income of the salaried engineer is, by and large, considerably less than that of the self-employed member of the same profession. The most recent census figures (1961) show the average overall income for professional engineers (including 'self-employed') as \$7,974, while the corresponding figure for "self-employed" is \$12,930. 14/

Although these differences have been a cause of some discontent by salaried engineers, several explanations may be offered to account for the higher incomes of self-employed engineers as well as those employed in administrative or managerial functions: age, ability and entrepreneurial capacity are the most often cited. No such explanation exists, however, for the discrepancy in the rate of income increase between professional engineers and unionized blue-collar workers frequently employed in the same enterprise. Of all the unfavourable financial comparisons, this is the one most frequently cited in professional salary demands.

"Collective Bargaining" vs "Collective Action" — In spite of the claims of relative financial deprivation, it is evident that a built-in resistance in the "professional culture" has kept all but a minority of salaried engineers from adopting formal collective bargaining, although collective action by informal "negotiation" and "communications groups" has been fairly frequent. The distinction is an interesting one, and reflects a tendency among most engineers to equate the concept of collective bargaining with trade union affiliation and the strike weapon. With the exception of some French-Canadian engineers in Quebec, this type of activity was generally considered incompatible with professional behaviour. 15/

### REFERENCES

- 1/ It should be noted that the Dominion Bureau of Statistics occupational classification excludes from the "professional" category, in which the graduate engineers are listed, an indeterminate number of persons with engineering degrees who are performing managerial, sales, and other functions. These are included in other classifications and consequently are not identifiable as engineers. These omissions should not appreciably affect the analysis of the engineering group, but the reader should be aware of them, particularly in considering the statistics on the employment status of professional engineers.
- 2/ DBS 1951 Census, Vol. IV, Tables 4 and 23.  
1961 Census, Vol. III, Part 2, Table 15.
- 3/ DBS 1961 Census, Bulletin 3, 1-14, Table 20.  
See Appendix A-1, Table 1 for employment status compared with other professional groups.
- 4/ See the experience at RCA Victor, Marconi, and Northern Electric, discussed in sections below.
- 5/ See Code du Travail, 1964, Article 20.
- 6/ A registered non-resident is an engineer who, although licensed outside a given province, has been granted a temporary permit to practice in that province as a professional engineer.
- 7/ In Quebec, some of these non-registered graduates are members of engineering syndicates affiliated with the CNTU and are included in their professional bargaining units. In Ontario, where only registered engineers are excluded from labour relations legislation, non-registered graduate engineers, e.g., foreigners, may form part of a bargaining unit. See Ontario Labour Relations Board decision certifying United Steelworkers as bargaining agent for white collar workers at Falconbridge Nickel Mines. Bargaining unit includes many professionals, including geologists and engineers, but excludes members of the Association of Professional Engineers of Ontario.
- 8/ DBS 1961 Census, Labour Force Bulletin 3. 1-9, Table 17.
- 9/ DBS 1951 Census. Vol. IV, Table 21.  
1961 Census. Bulletin 3. 1-14, Table 20.
- 10/ Department of Labour, Ottawa. Bulletin No. 10. Engineering and Scientific Manpower Resources in Canada, (June 1961), Table 18, p.34.
- 11/ Ibid., Table 9, p.25. See Appendix A-1, Table 2.



- 12/ See S.G. Peitchinis, "Age, Employment, Income Profiles of Professional Workers in Canada". Unpublished paper, Department of Economics, University of Western Ontario, London, Ontario, 1967.

Peitchinis judges occupational mobility by the different degrees of decline in the proportions of professional workers in the 45 years of age and over age group. While dentists have 44.5% of their group 45 years of age and over, priests 40.1%, physicians and surgeons 36%, university teachers 33%, physicists only have 14% in this age group, economists and engineers 23%. Peitchinis feels that the lower the degree of attachment to professional practice, the greater the tendency, after a certain age is reached, to assume employment responsibilities not related to professional specialization. Thus we find engineers, having reached the maximum income in their present jobs, attracted by the greater financial rewards of the administrative hierarchy. See Appendix A-1, Table 3 for statistics on which this analysis was based.

- 13/ Association of Engineers of the Bell Telephone Company of Canada. "Study of Remuneration of Level I and Level II Engineers in the Bell Telephone Company of Canada", (1966), p. 1.

- 14/ DBS Census of Canada, 1961, Bulletin 4. 1-2, Table B4.

- 15/ This attitude is illustrated by the responses to a questionnaire submitted to its membership in May 1967 by the Association of Professional Engineers of Manitoba (APEM). While 73.7% of those responding felt that APEM should "actively oppose collective bargaining for professional engineers", only 22.4% felt that it should "actively oppose group negotiations for professional engineers". 62% agreed that "professional engineers should form negotiation groups", but only 7.1% felt that they should "join other groups (professional or non-professional) in collective bargaining". Only 33.7% agreed that the APEM might "tolerate collective bargaining" while 15.16% replied that it should "support collective bargaining". In contrast, 55.6% felt that APEM should "support negotiation groups".

## PART II

### COLLECTIVE BARGAINING: LAW AND PRACTICE

Whatever the opinion of collective bargaining by individuals and groups, and whatever the pressure for change, present practice must be seen in the context of the legislation affecting professional engineers in the various jurisdictions of our federal system.

#### Legislation Affecting Professional Engineers

The legislation affecting professional engineers falls into three main categories:

- (1) a licensing act in each of the provinces
- (2) provincial and federal labour legislation
- (3) various public service acts at both the provincial and federal level.

Professional Licensing Acts - Each of the provinces has a particular Act governing the practice of the engineering profession. Generally this takes the form of an exclusive Engineers Act, although in a few provinces other professions are included in the same statute as the professional engineers.<sup>1/</sup> In all provinces, the administration of the Act governing the engineering profession is the function of the provincial Association of Professional Engineers.<sup>2/</sup>

By virtue of its licensing function under the Act, each provincial Association is responsible for defining the standards of entry into the profession and for regulating professional practice. By safeguarding entry requirements and enforcing ethical professional behaviour, a provincial Association performs its primary obligation under the law, the

protection of the public interest. Within the Association, of course, we find a parallel concern with protecting the interests of the members of the profession. This is evident in the practice of publishing fee and salary schedules although it may be noted that no provincial Engineers Act provides a legal instrument for the enforcement of these schedules; on the other hand, none prohibits their publication.

We may consider the practice of fee setting as a form of collective economic action permitted by the Engineers Acts. It is significant to note though, that this practice is oriented almost entirely toward the self-employed members of the profession rather than toward the large number of employed engineers for whom collective action is becoming an issue. Engineering associations, with a preponderance of senior engineers and private practitioners on their executive boards, have, on the whole, been strong in their opposition to collective bargaining by their employee members. This opposition reached a peak in Quebec, where in 1959 a clause was incorporated in the constitution of the Corporation des Ingénieurs du Québec (by amendment to the Engineers Act) to make collective bargaining (with trade union affiliation) an "unethical professional practice" (Art. 3.5). The clause had to be rescinded in 1964 when the new Labour Code made collective bargaining a legal right for professional employees.

None of the provincial Engineers Acts contains a provision for collective bargaining as such. Although the Ontario Act provides for an "employee members committee" 3/ of the Association of Professional Engineers of Ontario, it does not envisage more than "negotiation or consultation" with their employers. In no sense are these "employee members" meant to represent formal collective bargaining units.



Nearly identical clauses in the Engineers Acts of Saskatchewan, Newfoundland, Nova Scotia and Prince Edward Island 4/ permit their respective professional associations "to enter into agreements on behalf of the Association or members or engineers-in-training, with any person or association of persons, as may be necessary for or incidental to or conducive to the carrying out of the objectives of the Association." Some observers have pointed out that, the objectives of the Association being both the public welfare and the engineers' welfare, this clause could conceivably be interpreted for collective bargaining purposes, with the Association as the bargaining agent. So far, however, it seems to have been ignored.

There has been only one attempt by an Engineers' Association to convert a provincial Engineers Act into a vehicle for collective bargaining purposes, and this attempt ended in failure. In the spring of 1966, the Association of Professional Engineers of British Columbia, with the written support of 75% of its membership, tried to obtain an amendment to the Engineers Act to set up machinery providing full collective bargaining rights for employee engineers in that province. Certification would have been by the Labour Relations Board, the bargaining agent would have been an ancillary body established by but separate from the engineering association, final dispute settlement would have been by compulsory arbitration. The proposal, however, died in the Private Bills Committee, and the draft Bill never reached the floor of the Legislature.

Labour Relations Legislation - Professional engineers "qualified to practise under the laws of the province and employed in that capacity", are excluded from the provisions of eight provincial labour relations Acts

as well as from the Industrial Relations and Disputes Investigation Act (IRDLA) which governs labour relations in the federal jurisdiction. While these exclusions do not preclude the possibility of collective bargaining, or some form of collective agreement, under voluntary recognition procedures, there can be little doubt that an adverse public policy places limitations on collective action. In the case of the engineers in particular it reinforces the traditional opposition of employers and professional associations. Thus the continued pressure by interested groups for legal machinery for collective bargaining.

I have already noted the case of British Columbia in which changes were proposed to the Engineers Act itself to allow collective bargaining. Later in this paper I shall deal with current pressures in Ontario for a separate Professional Negotiations Act. 5/ In the case of the two provinces, Saskatchewan and Quebec, that give collective bargaining rights to professional engineers under general labour relations legislation, some particular details may now be noted.

A. The Case of Saskatchewan - Legal collective bargaining rights have been available to all professionals in Saskatchewan since the passage of the Trade Union Act (1944) in the sense that this Act has no exclusions on an occupational basis. 6/ The fact, however, that it originally had no provision for voluntary exclusion from a bargaining unit was a source of active discontent to some professional groups.

The engineers, in particular, claim to have been "captive" in bargaining units where closed shops exist and where, by the nature of their work, they constitute a minority of employees in the group. In 1957 the Association of Professional Engineers of Saskatchewan (APES) obtained a

ruling from the Labour Relations Board which excluded registered professional engineers from the bargaining unit. 7/ With this ruling as a precedent, professional engineers have since been effectively exempted from the operations of the Trade Union Act, although graduate engineers, not yet registered, (that is, performing the two-year requirement of "engineer-in-training") continued to be subject to the provisions of the Act and thus included in bargaining units with non-professional personnel.

After continued pressure from professional groups, with APES in the forefront, and on the recommendations of a legislative review committee, the Act was amended in a manner which made it easier for professional engineers to be excluded. On April 7, 1966, the Saskatchewan Legislature passed Bill 79, An Act to Amend the Trade Union Act, which, among other things, provided

- 1) the exclusion of members of professional associations from the bargaining unit upon application by a member of a professional association who is an employee of the employer and if the Labour Relations Board is satisfied that the majority of members of the professional association wish to be excluded. (Sec. 8A (1) )

and

- 2) that the appropriate unit of employees for bargaining collectively, as determined by the Labour Relations Board, may be an employer unit, craft unit, plant unit, professional association unit or a subdivision thereof or some other unit. (Sec. 5 (a), amendment underlined).



The effect of these changes is that salaried professional engineers may now, by majority decision, join a large union, exclude themselves from it, or form their own union. The net result, according to the available information, has been for professional engineers in Saskatchewan to "opt out" of collective bargaining. Even the few engineers-in-training who, until the passage of the amendment found themselves "captive" in units represented by the Oil, Chemical and Atomic Workers and the Saskatchewan Government Employees Association, are presently in the process of extricating themselves from this position.

B. The Case of Quebec - The Quebec Labour Code (July 1964) broke new ground by according full collective bargaining rights, including the right to strike, to members of a long list of professional groups (including the engineers) who were previously excluded from labour legislation. The only restriction is that each shall "constitute a separate group" to be certified as a bargaining unit. (Sec. II, 20)

It is interesting to note, however, that the largest engineering groups presently bargaining collectively in Quebec have not chosen to do so under the provisions of the Code. 8/ Because so much of the work of professional engineers involves supervisory or decision-making functions which would exclude them from the definition of "employee" under the Code, these groups have been hesitant to use the Code for collective bargaining purposes. They have preferred to incorporate under the Professional Syndicates Act, get "voluntary recognition" by virtue of their collective strength, and negotiate the composition of the bargaining unit directly with their employer, rather than risk a narrow definition of "employee" status and a high proportion of "management exclusions" by the Labour Relations Board.

The Professional Syndicates Act, discussed in some detail in the main section of this report, provides for the incorporation of occupationally homogeneous groups, but differs from traditional labour relations legislation in that it makes no clearcut delineation between "employee" and "management" functions. Because it would not exclude engineers (or other professionals) with supervisory functions from membership in a bargaining unit, some people have been promoting its possibilities as a vehicle for professional (or "cadres") unionism. A crucial deficiency of this Act, however, is that there is no legal requirement for an employer to recognize or negotiate with a syndicate of his employees, even though such a syndicate has official status under the Act. Recognition strikes, prohibited by the Labour Code, can result under the Professional Syndicates Act. 9/

Public Service Acts - In contrast to much of the general labour legislation, both federal and provincial, Civil Service Acts in Canada do not exclude professional workers from negotiating rights accorded to other categories of employees. However in most jurisdictions, the Civil Service Act specifically recognizes a Civil Service Association as the representative of all government employees, thus precluding a separate negotiating structure either for the professional category as a whole or for professional engineers in particular. It is only in the three jurisdictions (Saskatchewan, Quebec, federal) where full collective bargaining rights (including the right to strike) have been granted to civil service employees, that the law provides separate bargaining rights to those in the professional category.

I have already dealt with the position of the engineers under the Saskatchewan Trade Union Act, which covers all government employees in that province. In Quebec, professional engineers in government service originally

bargained in a separate engineering union (Le Syndicat professionnel des ingénieurs du gouvernement du Québec [CNTU] ) although the Civil Service Act, in contrast to the Labour Code, allows them the choice of bargaining as a separate professional group or joining a multi-professional syndicate.<sup>10/</sup> Professional engineers in the federal Civil Service have full collective bargaining rights under the Public Service Staff Relations Act. There is a separate bargaining classification for the engineering group within the general "Professional and Scientific" category of federal civil servants.<sup>11/</sup>

While professional civil servants are not mentioned specifically in any other jurisdiction, the case of Ontario and New Brunswick deserve special mention. Although the recently amended Public Service Act of Ontario grants all government employees collective bargaining rights (with arbitration rather than the strike weapon as the ultimate method of dispute settlement), the position of the professionals in the public service of that province is less clearcut than that of their counterparts in Saskatchewan, Quebec, and at the federal level. As there are no specific professional exclusions, the Ontario Act is assumed to cover professional employees, consequently the engineers. On the other hand, a provision of the Act which excludes any classification in which more than 50% have supervisory or advisory responsibilities <sup>12/</sup> leaves some doubt as to the eligibility of the professionals. Whatever the final decision on their bargaining rights, however, a provision creating the Civil Service Association of Ontario as the sole bargaining agent for government employees might inhibit the establishment of separate professional, or exclusively engineering, bargaining units. It certainly precludes the free choice of a bargaining agent.



Finally there is a fluid situation in New Brunswick where a recent royal commission recommended full collective bargaining rights, including the right to strike, to all categories of government employees. 13/ Moreover, while professionals in that province presently deal with the government through an all-inclusive Civil Service Association, the royal commission recommendations, if implemented, would allow professionals to bargain in separate occupational classifications, e.g., exclusive engineering unions and to choose their bargaining agent.

#### Collective Bargaining Experience and Practice

Experience has shown that labour legislation, while providing a certain framework for industrial relations, does not necessarily determine the form that these relations will take. In Saskatchewan, for instance, where professionals enjoy full collective bargaining rights under the Trade Union Act, the practice of formal collective bargaining by engineers is virtually non-existent. In Ontario, on the other hand, where professional engineers are specifically excluded from the provisions of the Labour Relations Act, some bargaining relationships have been established, outside the Act, on the basis of voluntary recognition. In Quebec, where collective bargaining rights for professional engineers are specifically granted by law, the practice varies widely from the repudiation of collective action in any form all the way to trade union affiliation and use of the strike weapon. 14/

According to information provided by professional associations across the country, formal collective bargaining is virtually non-existent in British Columbia, Manitoba, Saskatchewan, Alberta, New Brunswick, Newfoundland, Nova Scotia and Prince Edward Island. This, of course, does

not preclude the existence in these provinces (as well as in those provinces where some collective bargaining takes place), of informal negotiation and "communications groups", a frequent professional alternative to formal bargaining relationships. There may also be a small number of engineers included in collective agreements covering non-professional employees of the same employer. Because these do not bargain as engineers, however, they are not identifiable as such. 15/

A Word of Caution - It is clear from the research that a growing number of professional engineers are facing the frustrations of employment in large scale bureaucratic enterprise. It is also clear, however, that the majority of them still eschew the adoption of collective bargaining as a solution to their employment problems and strongly resist any suggestion that this form of collective action is the inevitable trend of the future. This study makes no projections or predictions. If the emphasis on collective bargaining seems disproportionate to its actual incidence among professional engineers, it should be remembered that the focus of the research has been determined by the terms of reference of my study for The Task Force on Labour Relations: "Professional Workers and Collective Bargaining—An analysis of the problems which professional workers and their employers face when they adopt a collective bargaining relationship."

It is for this reason that the main emphasis in this paper will be on those areas where professional engineers have already adopted or are seriously considering the adoption of some form of collective bargaining relationship to solve their problems as salaried employees. I have chosen Quebec and Ontario as the principal areas for intensive case study. The history and practice of collective bargaining in these provinces will

illustrate as wide a range of experience as one could hope to find as, between them, they account for 75% of the professional engineers in Canada. 16/ They also cover the substantial majority of those who presently bargain collectively. In Quebec we find the only example of formal trade union affiliation and the use of the strike weapon; in Ontario we find a group of professional engineers actively pressing for the adoption of a Professional Negotiations Act. From the experience of these two highly industrialized but culturally different provinces, the initiatives toward collective bargaining, the resistance that has been encountered, the problems that have arisen, the mechanisms that have been evolved, it should be possible to abstract some of the general problems facing members of professional groups and their employers when they decide to bargain collectively.



REFERENCES

- 1/ The Alberta Act applies to engineers, geologists and geophysicists, while in Newfoundland the engineering and accountancy professions are covered in the same statute.
- 2/ The associations are known as the Association of Professional Engineers of Ontario, British Columbia, etc. Only in Quebec the name is different, the Corporation of Engineers of Quebec. In addition to these provincial bodies, there is a Canadian Council of Professional Engineers but it has no status under the Engineers Acts. It is organized under the Companies Act (federal) and performs a coordinating function for the various provincial associations. It tries, for example, to establish some uniformity of standards of accreditation for engineering schools, holds annual meetings for discussion of mutual problems, etc.
- 3/ The Professional Engineers Act (Ontario), Regulation 496, Sec. 34, 36, 41.
- 4/ Revised Statutes Saskatchewan, 1952, Ch. 64, Sec. 25 (b).  
Revised Statutes Newfoundland, 1954, Ch. 241, Sec. 6 (k).  
Revised Statutes Nova Scotia, 1954, Ch. 85, Sec. 5 (k).  
Prince-Edward Island Engineering Profession Act, 1955, Ch. 43, Art. 6 (k).
- 5/ See section on Ontario, page 235.
- 6/ With the exception, as in all labour relations legislation, of those who are defined as "management" types.
- 7/ In an order issued by the Labour Relations Board of Saskatchewan, dated April 16, 1957, between Burnett C. Laws, and Ronald Earl Pelkey, Professional Engineers employed by the Government of Saskatchewan, and the Saskatchewan Civil Service Association (Certified Union), it was ruled that the said Professional Engineers be excluded from the operations of the Trade Union Act. The following quotation is taken from the said Board Order:

In the light of these and other facts and circumstances, revealed in the course of the hearing, the majority of the Board were of the opinion that it would be contrary to the spirit and intent of the Trade Union Act to constrain a small distinctive "fringe" group of professional employees to bargain collectively through a lay agency against their will when well and perhaps better able to do it for themselves as individuals and all to the detriment of the employer and to no appreciable advantage of the Union.

Another Board Order, dated April 16, 1957, excluded Rupert Mervyn Heaton, a Professional Engineer employed by the City of Regina, from requirement to join the Electric Utilities Employees' Union, Local No. 9, chartered by the Canadian Labour Congress.

- 8/ See section on Quebec, pp. 174, 175, 181. The largest engineering syndicates that could be subject to the provisions of the Labour Code are Le Syndicat professionnel des ingénieurs de l'Hydro-Québec (270 members, Dec. 31, 1966) and Le Syndicat professionnel des ingénieurs de la Ville de Montréal (310 members, April 30, 1967), both organized by the CNTU and incorporated under the Professional Syndicates Act. Le Syndicat professionnel des ingénieurs du gouvernement du Québec (551 members, March 23, 1967) is also affiliated with the CNTU and incorporated under the Professional Syndicates Act, but, as a union of civil servants, it is subject to The Public Service Act rather than to general labour legislation.
- 9/ See the experience at Hydro-Quebec, pp. 181, 185.
- 10/ Quebec Civil Service Act (1965) Section 69 a,b,c; Sections 71, 72. See Reference 65, p. 207 for recent merger of professional syndicates in Quebec Civil Service.
- 11/ Canada Gazette (Part 1) (Ottawa, March 25, 1967), p. 894.
- 12/ Ontario Regulation 239/65.
- 13/ Saul J. Frankel, Report of the Royal Commission on Employer-Employee Relations in the Public Service of New Brunswick, 1967.
- 14/ For details see sections on Ontario and Quebec.
- 15/ The United Automobile Workers, United Steelworkers, and American Federation of Technical Engineers are known to have a small engineering membership in the United States. Similar information is not available for Canada at present, although we know, for instance, that engineers-in-training were, until recently, included in bargaining units of the OCAW in Saskatchewan. Also, see the case of non-registered engineers in the bargaining unit at Falconbridge Nickel Mines. Section on Ontario, p.243.
- 16/ Of the 45,062 professional engineers listed in the most recent Canadian Census, 12,514 (29.1%) practise in Quebec; 19,629 (45.1%) in Ontario. The remaining number are distributed as follows: 7.1% in Alberta, 7.8% in British Columbia, 10% in the other provinces combined. DBS, Census of Canada 1961, Series 3, 1-3 (Vol.III, Part 1), "Occupations by Sex, Canada and Provinces".

### PART III

#### THE QUEBEC EXPERIENCE

##### A. PRELUDE TO PROFESSIONAL UNIONISM

###### The Peculiarities of the Quebec Context

It is more than a matter of chance that formal trade union affiliation by Canadian engineers has been virutally limited to Quebec and that, within this province, the practice has been confined to the French-speaking group working in the public sector. A combination of socio-cultural and political factors have been advanced to explain this phenomenon.

The Political Context — The experience in Quebec indicates that the attitude of the employer can be a significant variable affecting the ability of professional workers to organize and bargain collectively. The least employer resistance was found in the public sector and it was in this sector that the professional unions achieved their greatest organizing success. At the city of Montreal, for example, the engineers' first collective agreement came at a time when the municipal authorities were particularly dependent on their engineering employees. It is not without significance that union recognition and the first contract negotiations coincided with the City's preparations to build the subway and with its plans for construction of the Expo site, hardly a time for intransigence in dealing with its professional engineers. At the provincial level, the favourable attitude of the Lesage government toward professional organization in general and the CNTU in particular undoubtedly facilitated the organization of the engineers' syndicates at Hydro-Quebec and in the Civil Service.



The participation of French Canadian intellectuals from the universities, the mass media, and the Catholic labour movement, as well as those in active politics, in events leading up to the "Quiet Revolution", forged links of comradeship that persisted after the Liberal victory in 1960 and help to explain at least some of the success of the CNTU in the years that followed. The significance of these personal relationships can hardly be exaggerated. In considering the successful organization of the engineering syndicates, for example, it is important to remember that René Lévesque, the Minister of Natural Resources, responsible for Hydro at the time the engineers organized, had been involved (on the employee side) in the famous strike of French Producers at the CBC (1958-59). This strike has been considered by many as the sparkplug of the "Quiet Revolution"; it is generally agreed, moreover, that it was the most important milestone on the road to professional unionism in Quebec. René Lévesque emerged from the Producers' strike strongly committed to French Canadian nationalism, to political activism and to the cause of professional unionism. He also felt a bond of friendship with the leaders of the CNTU who had supported and advised the striking producers.

Socio-Cultural Factors — While a favourable political climate may have facilitated the development of professional syndicalism in the public sector, it is clear that the ultimate decision on collective action would depend on the engineers themselves. The propensity to organize and bargain collectively, and particularly the willingness to strike, have distinguished the French Canadian professional engineers from most of their English language confrères, both in Quebec and in the rest of Canada. Some of these differences have been attributed to socio-cultural factors.

The point has been made, for instance, that French Canadian engineers, having less personal mobility than most English language members of the profession, may compensate by adopting collective action to improve conditions in their present jobs. Moreover, because of their intellectual orientation toward France and Europe, where the concept of "cadres" unionism is firmly entrenched, they do not seem to have the same psychological resistance to union activity as their English language counterparts. Finally, they have been encouraged in the adoption of "cadres" unionism by their fellow intellectuals in the universities and the press and by the availability, for this purpose, of a particular type of trade union organization, the CNTU with an almost exclusively French Canadian membership and a preponderance of intellectuals in its higher ranks.

The following section contains a descriptive account of the early initiatives toward collective action by professional engineers in a number of private companies as well as in the public enterprises mentioned above. Some of the difficulties they encountered will illustrate, among other things, the determined stand by the professional association, the Corporation des Ingénieurs du Québec (CIQ) and private employers on the negative side of the collective bargaining debate. At times it may be necessary to digress from the historical sequence of events to place them in their broader social context. The impinging social and economic environment, political developments and legislative measures are, after all, an important part of the story.

#### The Evolution of Collective Action 1944-1963

PC 1003: A Landmark in Labour Legislation — The history of collective bargaining for professional engineers in Quebec, as in the other

provinces, must begin with PC 1003, the wartime order-in-council (1944) that became a landmark in the development of Canadian labour legislation. As PC 1003 contained no provision for professional exclusions, it was presumed to cover all professional workers who conformed to its definition of "employee" status. 1/

Some units of professional engineers were formed in Quebec and Ontario at that time, but they seem to have been organized more in defense against the provisions of PC 1003 than as militant bargaining groups. Federations of these units were, in fact, encouraged by the provincial professional associations (in Quebec, the CIQ) so that engineers would not be forced into non-professional bargaining units. Considering the negative attitude of the professional associations to the idea of collective bargaining by their employee members, it is no wonder that these original engineering units did not develop into full-fledged unions.

Northern Electric Employee Engineers Association (NEEEA) -- One group formed under the provisions of PC 1003 survived for a considerable number of years in the electrical industry in Quebec. The Northern Electric Employee Engineers Association was formed in 1946 by a group of interested engineers as well as some graduates of other disciplines and accomplished technicians doing similar work. Because of its heterogeneous membership, this group could not join CIQ's Federation of Employee Engineers and the CIQ would not sponsor it for certification by the Labour Relations Board. In spite of opposition from the CIQ, however, NEEEA was certified in 1947 (according to the provisions of PC 1003). From then until 1959, it negotiated contracts for all non-supervisory engineers and their associates working for Northern Electric in the Montreal area although, it should be



noted, once PC 1003 was no longer in force the position of NEEEA was considerably weakened. With the exclusion of professional groups from subsequent labour legislation, the status of NEEEA was reduced to that of a "recognized association" existing at the pleasure of the company.

NEEEA is mentioned here as an example of an early initiative toward organized collective action. It should be understood, however, that this association was committed to informal discussion and "rational" argument in its dealings with the company and never considered itself in a formal adversary relationship to management. The members made few demands and their leaders were far from militant. Periodically, militant dissidents would try to gain control, but they were always unsuccessful in imposing any significant change. While NEEEA confined itself largely to presenting its "opinions" to management on various issues, however, it did manage to secure some salary increases and convinced management to "rationalize" the system of setting salaries. Some informants have suggested that they succeeded too well on the rationalization of salaries, discouraging initiative and making pay increases difficult to get!

Salaried Employees Association (Marconi) (SEAM) — In 1947 the Quebec Labour Relations Board certified another group in a private company, the Salaried Employees Association (Marconi) (SEAM). As in the case of NEEEA, this group was not made up exclusively of registered (licensed) engineers. Marconi, a Canadian based company, required many engineers to do design, research, etc. and had long hired immigrant engineers to meet these requirements. Although the immigrants had engineering degrees, they were not necessarily registered by the CIQ. The certification order of SEAM included "draughtsman senior, engineering assistant, engineer junior, engineer

intermediate, engineer senior, excluding supervisors." Contracts were negotiated, until 1965, in the name of these and all other office workers in the head office.

In general, the engineering employees were satisfied with the fringe benefits, overtime pay calculations, etc., but they did not like the method of salary adjustment which required an individual to pressure his superior for an increase within the limits of a minimum and maximum wage set out in the contract. In addition, some registered engineers objected to having non-registered personnel employed under the same title. These grievances, being peculiar to the engineering group, could not be considered formally as they were of little concern to the wider membership of SEAM. It was only with the passage of the new Labour Code (1964) that Marconi engineers were required to negotiate separately from the other employees in SEAM. This will be discussed in a later section.

"L'Epoque des désillusions"—Prelude to the Quiet Revolution — While engineers in private companies, like Northern Electric and Marconi, were taking the first timid steps as trailblazers for collective action, changes were occurring in the Province, and in the Catholic labour movement, which would pave the way for the eventual unionization of professional engineers, particularly the French ones in the public sector.

French Canadian engineers, now unionized, refer to the period from 1943 to 1963 as l'Epoque des Désillusions. 2/ This was indeed a period in which many groups were becoming "disillusioned" with existing conditions. Some of the changes this "disillusionment" provoked shook the foundations of the traditional institutional and power structure.

This was the period, for example, in which French Canadian intellectuals began to attack the Duplessis regime and the entire power structure in a radical journal of opinion called Cité Libre, while the Catholic labour movement, until then a staunch supporter of the status quo, became the most militant trade union organization on the continent. The famous Asbestos Strike (1949) was the first of a series of public manifestations that the Catholic Syndicates, as they were popularly known, were prepared to challenge the joint control of government, church, and industry in labour matters. When this movement changed its name from Canadian and Catholic Confederation of Labour (CCCL) to Confederation of National Trade Unions (CNTU) in 1960, it was the symbolic culmination of an ideological revolution that had begun in the middle forties. Even more significant, it was a reflection of similar changes in the wider social context.

Landmarks on the Road to Professional Syndicalism — Certain events of the forties and fifties may be noted as a prelude to the formation of the engineering syndicates that exist today. For example:

1. The Organization of the City of Montreal Office Workers — As early as 1943, a strike of white collar workers resulted in the recognition of the "Syndicat des fonctionnaires municipaux" (Union of Municipal Civil Servants) as bargaining agent for the City of Montreal office workers and certain specialists. While the Quebec Labour Relations Act excluded engineers and other professionals from the bargaining unit of municipal employees, leaving the determination of their salaries and working conditions to the vagaries of the labour market, the City administration occasionally raised the engineers' salaries after the unionized employees



won increases. Thus the activities of the unionized office workers were closely watched by the municipal engineers.

2. An Association of Salaried Engineers at the City of Montreal — The prosperity of the early fifties produced a brisk market for engineers but this slowed down in the latter years of the decade. Rumblings of discontent brought on the formation of several associations of salaried engineers; they also produced a counter-reaction by the CIQ which resulted, among other things, in the dissolution of the Northern Electric Employee Engineers Association.

In 1955, the first organization of City engineers made its appearance: a small "Association" of Public Works engineers. This was hardly more than a social club for the exchange of ideas, for conferences and dinners. However, although unionism as such was not considered, the president of this group felt he had to resign when the City promoted him to a supervisory position (1957). In so doing he drew attention to the distinction between "labour" and "management" for professionals in municipal employment. The Association, he felt, belonged clearly on the "labour" side and he did not consider it appropriate to remain president once he had been promoted to the management level. With the resignation of its president the Association died.

3. The Crisis of 1956 at The City of Montreal — In 1956, eighty City of Montreal engineers resigned in protest against salaries and working conditions. The engineers who remained asked the CIQ to inquire into the situation; the City gave permission for the inquiry, with no undertaking, however, to implement the recommendations that might be made. In the meantime, in the fall of 1957, the City administration changed and the new

administration gave a salary raise of 10% to engineers at all levels. In spite of this increase, however, the Corporation's report stated, in 1958, that the working conditions, marginal benefits and salary levels of City engineers were still inferior to those in industry. The report made no recommendations and the City took no action on its findings.

4. 1958-59: The CBC Producers' Strike — At this time, other professionals were taking the collective action route to solving their problems as employees. I have already mentioned the strike by the French Producers' Association at CBC and its implications for the development of professional unionism. Because the Producers were defined as part of management according to labour relations legislation (in this case, the IRDIA), they had no legal right to collective action. When other unionized employees respected the Producers' picket line, however, the CBC was forced to "voluntary" recognition of the Producers' Association and tacit recognition of the principle of professional or "cadres" unionism. The ramifications for other professional groups, including the engineers, were tremendous.

5. Reverberations in the CIQ (1959) — At this point, the CIQ took action to ward off the formation of engineering unions. For example:

a) Revisions to The Code of Ethics. — In April 1959, the Council of the CIQ proposed revisions to its constitution that would make trade union activity a contravention of professional ethics. Among changes approved by the 35% of the membership who voted on the proposals, we may note particularly the amendment to the Code of Ethics (Article 3.5) which read:

The engineer shall not be a member of a trade union nor participate as such in any form of trade union activities, since he would then uphold a philosophy and certain methods of negotiation incompatible with true professionalism, such as the use of strikes and the like.

The proposed revisions became law by Order-in-Council in September 1959. One of the first results was the decertification of the Northern Electric Employee Engineers Association.

b) The formation of the Professional Engineers Representative Group (PERG). — In addition to this negative measure, the CIQ attempted to develop some form of collective action as a substitute for formal collective bargaining. The PERG was founded in November, 1959, within the Corporation, to promote the interests of salaried engineers and discuss salaries and working conditions. 3/ The PERG formed a Council composed of two representatives from each large employer in the Montreal area. This covered about 2,000 engineers working for 17 large employers, the latter paying for PERG's expenses by means of voluntary contributions. The main stated objectives of the PERG were:

- i) to interest salaried engineers in the affairs of the Corporation
- ii) to improve communications between the Corporation and salaried engineers
- iii) to try to set up within each company a group of salaried engineers, for the purpose of discussing working conditions and other problems with the employer.

Once formed, the PERG tried to survey the problems of salaried engineers; to set up committees within the Corporation so that the point of view of the salaried engineers would be heard; to have some salaried engineers elected to the Council of the Corporation; 4/ and, especially, to establish, within each company, a "communications group" to discuss and



defend the interests of salaried engineers. The establishment of "communications groups", however, entailed no obligation on the part of the employer to take account of employee demands.

It may be noted that "communications groups" or their equivalent still provide a means of "informal negotiation" for employee engineers who object to collective bargaining as such. However, they were soon abandoned by the salaried engineers in the public sector. The PERG itself was disbanded after four years of existence. Its failure has been attributed to the conflicting interests of the Council members: some were employers and some, employees. By 1963 the employee members had become disillusioned with the organization. With their departure from the Council, the PERG ceased to exist.

6. "Communications Groups" in The Public Sector: Hydro-Quebec and the City of Montreal — Before they turned to trade union activity, salaried engineers in the public sector had tried the method of "communications groups", at the instigation of their PERG representatives: Adrien Lemelin at Hydro-Quebec and Réal Lafrance at the City of Montreal.

The Hydro-Quebec Communications Group was formed in 1960 and had much initial support. At that time, Hydro engineers were still strongly opposed to unionism and firmly committed to solving their problems within the CIQ. As late as 1963, this group's executive committee supported the CIQ in its position against the unionization of professional workers and especially against the unionization of engineers. At the same time, however, a significant number of engineers began to express disagreement with the attitude of their Executive Committee. They felt that the communications group had failed to obtain any substantial benefits. Moreover, with

the nationalization of Hydro, the young French Canadians among the salaried engineers wanted a larger voice in the running of their company as well as higher salaries for their professional services. We shall see shortly how they turned to active trade unionism as the method to achieve their objectives.

The year 1960 also saw the formation of the Association of Professional Civil Servants of the City of Montreal (APCSCM). This group included engineers, professional workers, and other "cadres" employed by the city. In 1962 APCSCM was incorporated under Article 3 of the Companies Act but its efforts at negotiation ended in frustration. In May 1963 the City of Montreal Employees' Union (Syndicat des Fonctionnaires Municipaux de la Ville de Montréal) 5/ renewed their collective agreement and the APCSCM tried to obtain commensurate gains. The City promised salary adjustments for the engineers by the end of 1963. When action on this promise was not forthcoming, the engineers employed by the City of Montreal turned decisively to professional syndicalism.

#### Major Protagonists in the Debate: Their Role in the Early Sixties

Before describing the final steps toward professional syndicalism, and the collective bargaining experience that followed, I shall digress briefly to consider the role of the major protagonists in the debate.

The course of collective action by professional engineers was influenced by a number of persons and groups in the crucial years of the early sixties. The CNTU and the "intellectuals", for example, played a significant role on the side of professional unionism, with the CIQ and the private employers in determined (though not united) opposition. While these groups

will be considered separately, their interdependent relationship must not be forgotten. It should also be remembered that they played their parts in the social context of the "Quiet Revolution."

The CNTU — The CNTU of the early sixties was characterized by its dynamic organizational drive, its militant bargaining tactics, an undercurrent of nationalism and a commitment to social change. For a movement of this kind, the growing number of young (French Canadian) professionals represented a potential source of union membership and a possible instrument for implementing its philosophy of social change. Moreover, the CNTU leaders believed that professional workers in paid employment had a fundamental right to collective action. They had already demonstrated this conviction by their support of the French Producers' strike at CBC. They would do more in the years to come.

Jean Marchand, first in his capacity of Secretary-General, and later as President of the CNTU, was an outspoken advocate of professional unionism. In innumerable speeches over the years he had insisted on the right of association and collective action for professionals working as salaried employees. When he submitted his organization's formal brief to the Parliamentary Committee on Industrial Relations (1963), it included a strong plea for professional bargaining rights. It goes without saying that he was not thinking of the CIQ as the bargaining agent for the engineering group!

While the CNTU was presenting its official position in the matter of professional unionism, some of its officers and staff established informal contacts with groups of employee engineers. Jean-Paul Geoffroy, in particular, as legal counsel of the CNTU, was to play a major role advising the



engineering unions, both in the process of their formation and in their subsequent collective negotiations. By pointing out, at an official inquiry (Montreal 1963), that Article 3.5 of the Code of Ethics of the CIQ was illegal 6/, he gave the green light to salaried engineers at the City of Montreal who wanted to organize a full-fledged union. With the organization of the first engineering syndicate at the City of Montreal (October 1963), followed by similar syndicates at Hydro-Quebec (February 1964) and the provincial Civil Service (April 1964), and with the formation (November 1964) by these three groups of the Fédération des Ingénieurs du Québec (FIQ), soon to become the Fédération des Ingénieurs et Cadres du Québec (FICQ), 7/ all affiliated with the CNTU, the dominant role of this militant labour movement in the professional segment of the public sector was firmly established.

In the private sector, as we shall see below, no comparable success can be claimed by the CNTU. It is generally agreed, as a matter of fact, that FICQ's failure to affiliate any of the unions of engineers in private companies is directly related to its own association with a central labour organization. In view of this fact, plus recurring questions within the Fédération itself on the appropriateness of trade unionism for professional workers, there have been some suggestions that the FICQ reassess its relationship with the CNTU. Notwithstanding a few recent rumblings, however, the official position of the Fédération remains firmly committed to continued affiliation. 8/

The "Intellectuals" — The role of the "intellectuals", in the universities and the press, complemented that of their counterparts in the CNTU. Many of the CNTU officers and staff had been trained at the Social Science Faculty at Laval and had studied and worked with some of the

professors who were now expressing themselves on professional unionism. In the case of the intellectual press, moreover, there was not only a feeling of affinity with the CNTU, but sometimes an overlapping of personnel. For example:

Some CNTU officers and staff were collaborators on the radical journal of opinion, Cité Libre, an organ of social reform. Gérard Pelletier, for example, was co-editor of Cité Libre and editor of the CNTU publication, Le Travail. When Pelletier became editor of La Presse, he remained public relations director of the CNTU. His role in publicizing the position of the City of Montreal Engineers in La Presse is described on page 171. Even the regular journalists, both at La Presse and Le Devoir, were organized in CNTU syndicates thus assuring favourable news coverage for the emerging professional unions.

University professors were active in the debates of this period and some of them played a significant role in formulating a "rationale" for professional unionism. To illustrate with a few examples:

Abbé Gérard Dion, then director of the Industrial Relations Department at Laval, and presently a member of the Task Force on Labour Relations, pointed out as early as 1960 that all engineers working in industry are not necessarily in superior "cadres" positions. A large number, he observed, are "employees" like other workers and have the same need for unionization. While noting that the time was not ripe for the law to force employers to bargain with their engineers in "cadres" positions, he felt it should be made clear, at least, that collective bargaining for this group would not be considered illegal. 9/ Another Laval Professor, Jean-Réal Cardin, presently director of the Industrial Relations Department, is a strong proponent of "cadres" unionism as such, and has done much to articulate the concept.

His definition forms the basis of FICQ's organization policy:

The 'cadres' are not members of the Board of Directors and do not make general policy decisions for the organization; but at one level or another they take part in administration, control or advice... They bring, under this collective title, all those who are not pure doers, who exercise a certain amount of initiative and responsibility whether human (as in personnel management), scientific, technical or administrative. The 'cadres' therefore, do not include only those who hold a managerial or administrative function ('line') but also those who, without actually directing employees or acting as administrators 'per se', assume some kind of scientific, professional or technical responsibility ('staff'). As 'staff' they participate in management as much as 'line', and fall into the category of 'cadres'. There can be no doubt that engineers, for example, are part of the so-called 'cadres' of their organizations.... (Underlining mine)

Those who form the 'cadres' then are essentially salaried employees, including all who in one role or another, assist top management in establishing its policies and supervising their application at the executive level. 10/

These men were not alone, but are mentioned as examples of distinguished proponents of professional unionism, in one form or another, in the academic community. Finally, it may be noted with interest that one of the English language academics frequently cited by French Canadian unionists as favoring professional syndicalism is H. D. Woods, chairman of the McGill Industrial Relations Centre and mediator in the Producers' Strike when the issue was first being debated, now Dean of Arts at McGill and Chairman of the Task Force on Labour Relations.

The CIQ and the Employers — Although some differences of opinion have been expressed in discussions within the CIQ, its official policy toward collective bargaining has, by and large, reflected the views of its members in executive positions and consulting work rather than those of its employee members. While it is the latter who are clearly most directly concerned with the problem of collective bargaining, the former, by their



virtual monopoly of executive and staff positions in the CIQ, have dominated the Corporation's policy. 11/ In spite of this, however, public statements of the CIQ, through its Council, its journal and its staff, have undergone considerable modification in the years between the restrictive amendment (Article 3.5) to the Engineers Act (1959) and the passage of the permissive Labour Code (1964). Once collective bargaining rights for professionals were entrenched in the law, the CIQ could no longer maintain its formal opposition.

As it became clear, in the early sixties, that certain groups of salaried engineers could no longer be deterred from taking some form of collective action, the CIQ tried to prevent the formation of engineering unions as such and to establish its own position as spokesman for its employee members. In 1963, for example, it protested to the Provincial Secretary against the incorporation of syndicates of engineers at the City of Montreal, Hydro-Quebec, and the provincial government, although these would be legal under the Professional Syndicates Act. In the same year, the CIQ submitted a brief to the Industrial Relations Committee of the Legislature opposing any amendments to the Labour Relations Act that would give salaried members of the profession the right to negotiate collective agreements. Instead, it recommended to the provincial government that the Quebec Engineers Act be amended in such a way as to encourage the setting up of "communications groups" to facilitate contact between salaried engineers and their employers. By bringing these "communications groups" under the Engineers Act, it was felt that the CIQ would remain in control.

The Council of the Corporation stated that its Report to the Minister of Labour was based on a study by its Salaried Engineers' Committee (formed

after the dissolution of the PERG) and that this Report, opposing the inclusion of professional engineers in the provisions of the Labour Code, represented the unanimous opinion of the Committee. In fact, however, two members of the Committee, Engineers Adrien Lemelin and Roger Turgeon, had dissented. They made public their disagreement, not only with the Brief, but with the functioning of the Salaried Engineers' Committee itself. They claimed that the composition of the Committee was weighted in favour of management; 12/ that the Council of the Corporation had set the terms of reference of the study, thus assuring an anti-union orientation; that it (the Council) had forbidden members of the Committee to consult with union representatives; and that it had kept members of the Corporation in ignorance of their legal rights of association under the Professional Syndicates Act. 13/

Thus, on the eve of the new Labour Code, the CIQ had to face some dissension in its own ranks as well as the pro-union declarations of the "intellectuals" and the organizing activities of the CNTU. At the same time, a group of employers were to add to the troubles of the Corporation.

In a joint brief to the Private Bills Committee of the Legislature concerning amendments to the Engineers Act, a significant group of employers 14/ challenged the right of the professional association to jurisdiction over employees in a private business. They objected, for example, to one of the corollary powers of the licensing function by which the CIQ could prosecute any unlicensed person who claimed the title "engineer". This clause, they maintained, if interpreted to prevent an employer from hiring whom he wished for engineering work, constituted an infringement on management rights. In addition, the employers challenged the authority of the professional Corporation over the activities of its employee members. The brief stated:

Salaried engineers...must follow the line of conduct imposed on them by their employers and are not responsible to anyone but them for the performance of their functions. It is from the directors of an enterprise that the public expects the protection it has a right to, and not the professional body... When there is no public practice or the public interest is not at play, the powers of the professional corporation don't apply to the profession... The Corporation does not have the right to get the absolute power which it now asks for in matters that concern employee engineers. (Underlining mine)

By questioning the authority of the CIQ over employee engineers, this management group may have unwittingly undermined the position of the Corporation in its fight against professional unionism. In effect, these employers, though strongly opposed to trade unionism themselves 15/, were echoing the unionist thesis that the CIQ could not claim to represent its employee members.

The Legislature rejected the CIQ's proposal for amending the Engineers Act to encourage the formation of "communications groups". Instead it made changes in the Act which limited the powers of the Corporation. A new clause, (5j) gave employers the right to hire whomever they wanted for a wide range of engineering work, without interference from the Corporation. 16/ However, although it does not prevent unlicensed personnel (skilled European engineers as well as engineering technicians) from doing some engineering work, it may be noted that the Act restricts the use of the title "engineer" to members of the CIQ. 17/

The CIQ's representations in re the proposed labour legislation also were in vain. In spite of the Corporation's protests, the new Labour Code (1964) and Civil Service Act (1965) gave full collective bargaining rights to employee engineers. Even before the passage of this legislation, moreover, the government had approved applications, under the Professional



Syndicates Acts, for the incorporation of syndicates of engineers at the City of Montreal (1963), Hydro-Quebec (1964), Provincial government (1964). As these applications were all opposed by the CIQ, the government's approval represented a break with the tradition of consulting the Corporation, and accepting its advice, in matters concerning engineers.

Following the changes in the Labour Code and the establishment of engineers' syndicates, the CIQ asked its members to vote by referendum to withdraw Article 3.5 from its Code of Ethics. In a letter addressed to the membership on October 23, 1964 the President of the Corporation wrote:

It has been a long-standing policy of the Corporation to consider compulsory collective bargaining and participation in union activities as being unsuitable for engineers ... other avenues which received the blessing as well as the sponsorship of the Corporation include the use of individual contracts and the formation of communication groups within individual companies.

The new Labour Code gives engineers, and all professionals for that matter, the right to bargain collectively as well as the unlimited right to affiliation.

Council has secured expert opinion as to the legality of Article 3.5 vis-à-vis the new Labour Code. This opinion clearly indicates that Article 3.5 has now become null, illegal and non-enforceable ... Council recommends that Article 3.5 be replaced and that you vote accordingly on the attached ballot.

Council wishes to reiterate that it does not consider compulsory collective bargaining or union affiliation as being advisable for engineers. Therefore, it is the recommendation of Council not to resort to such means.

Some 4,500 engineers voted in the referendum and 71% of them approved the repeal of Article 3.5, thus changing the official position of the Corporation with respect to professional syndicalism, although not its views on collective bargaining. Since then the CIQ has given its blessing to the Federation of Employee Engineers (FEE) 18/ made up of members of non-bargaining associations who are looking for some form of collective

action other than through the syndicates. It has also taken the lead in forming an Interprofessional Committee, with eighteen other professional corporations, presumably to assure some control by the corporations over the development and activities of professional syndicates. In spite of its activities on the periphery of employee interests, however, it seems clear that the CIQ, as a professional Corporation, is prevented from direct action on behalf of the salaried engineers. For instance, it could not act as a bargaining agent under the present Labour Code and it does not have the legal power to enforce even a minimum salary scale for its employee members. On the latter point, it has recently received the following legal advice:

In my opinion, such a scale of minimum salaries would be binding only upon (employers who are) members of the Corporation and the sole sanction would be by way of disciplinary action ...

It is, I think, obvious that a minimum wage scale binding only upon engineers would tend to be ineffective. While an engineer might feel inclined to charge less than the tariff of fees in the hope of attracting customers, an employed engineer would only be prepared to work below the minimum scale if he was threatened with unemployment.

It is difficult to envisage the Corporation punishing an employee because he has taken steps to avoid unemployment. I would conclude that a by-law (of the CIQ) establishing a minimum wage scale would be difficult and unpleasant to enforce and that if the scale is to be really effective it must be binding upon all employers so that the employee could sue for any deficiency, and this in my view could only be effected by new legislation. 19/

Needless to say, FICQ gave this letter considerable publicity in its journal, Cadres, to support its contention that CIQ is powerless to protect the financial interests of its employee members.

## B. PROFESSIONAL UNIONS AND COLLECTIVE BARGAINING

In the previous section I noted the significant landmarks on the road to collective action between PC 1003 and the early years of the "Quiet Revolution" and identified the major protagonists in the debate. I shall now describe how some groups of professional engineers have completed the journey and established collective bargaining relationships with their employers.

In the relatively few instances where salaried engineers in the private sector have adopted collective bargaining, or are trying to establish a formal bargaining relationship, they have done so by means of "independent associations", company unions, in effect. In the public sector, on the other hand, professional engineers, mainly French Canadian, bargain as full-fledged members of the CNTU. The experience of the latter groups, the collective bargaining practices they have established and the resulting collective agreements they have negotiated provide particularly interesting material for the purposes of this study. First though, let us look at some recent experiences in the private sector.

### The Private Sector: Company Unions

Marconi — Marconi now has about 180 employees doing engineering work; 50 of these are members of the CIQ, 50 are engineering graduates who are not CIQ members, and about 80 others are recognized by the Company as "bona fide" engineers, by virtue of their experience doing engineering work in the Company and their technical school training.

While engineering employees of Marconi had been part of the Salaried Employees Association (Marconi) (SEAM) since 1947 20/, the new Labour Code



(1964), with its provision that professionals form separate bargaining units, forced them to reassess their position. Many of the professional engineers wanted to form their own syndicate but management dissuaded them, asking that it be given a chance, on a trial basis at least, to treat its professional workers differently from other employees and to try to solve their particular problems through reasonable discussion.

In spite of some initial misgivings, the SEAM executive and its engineer members agreed that the engineering workers would form a separate group, within SEAM, and that this group would have the status of a "recognized association". For all practical purposes, its rights would be those of a certified union, but without the security of a certification order by the Labour Relations Board.

Since the inception of this "recognized association" in 1966, a joint Management-Engineer Committee has decided the conditions for membership. Those eligible are: a member of the CIQ, one just graduated or working towards acceptance by the CIQ, and who has at least four months experience at Marconi, a technician who has had seven years with Marconi and four of these years with experience in recognized engineering work plus technical school training. Because these qualifications are relatively exclusive, the association is known as "The Club".

Prior to 1966 SEAM had negotiated one contract for all salaried employees including the engineers. The general clauses and fringe benefits of the overall SEAM agreement still apply to the engineering group. In addition, the Engineers Committee of SEAM negotiates provisions on salary and working conditions to apply exclusively to the engineers. This arrangement has satisfied the engineers' long-standing complaint that SEAM, because

of a preponderance of non-professional members, was not negotiating salary scales and merit increases appropriate to the engineering group.

In addition to getting an overall wage increase under their present agreement, Marconi engineers now have a salary review plan providing for recognition of individual differences. This represents a significant achievement in collective bargaining for professional workers and merits some detailed consideration.

The plan provides for semi-annual meetings between each engineer (section leaders included) and his supervisor for the purpose of reviewing and discussing his performance. As a result of this review, the engineer is graded on performance and growth into one of four categories tentatively defined as "just acceptable", "average", "good", and "excellent". Corresponding to these categories are automatic salary increases of \$150, \$300, \$450 and a sum greater than \$450 respectively in annual salary.

Since these reviews take place every six months for each engineer, an engineer remaining in the same category for two successive reviews would receive a total salary increase of \$300, \$600, \$900, or more than \$900 in the period of one year. These reviews continue every six months indefinitely until the engineer's annual salary exceeds \$10,500. At this point, the Company can decide to limit him to one more year in the plan, after which time his salary will only increase at the minimum rate of \$150 annually every six months. This will be done in cases where it is felt that the engineer's growth has stopped or where the Company has no position of higher responsibility available which corresponds to higher salary levels. If at some later time the engineer assumes more responsibility or is promoted, he may return to the plan until such time as his salary has grown

to the point where the Company decides once again to impose the one year limit. The figure \$10,500 used to determine the one year limit does not stay fixed but increases by 3% at the beginning of each year.

In addition to the salary review plan, a novel professional improvement clause has been negotiated for Marconi engineers. This clause states that the Company will pay the same percentage of the cost of a course taken by an engineer as the percentage he gets in the exam. The course must be approved by his supervisor.

The business agent of SEAM helped the engineers negotiate their contract. In addition to getting the overall wage increases and fringe benefits of other Marconi employees, as well as their own salary and professional clauses, the engineers won separate vacation clauses and a salary continuance scheme to supplement SEAM's sick leave plan. SEAM's contract on these points was considered inadequate for the engineers.

Since their first contract was signed in 1966, Marconi engineers have had no recourse to grievance procedure. Some observers attribute this to the fact that an independent union is a "company union", with all the negative connotations that this implies. Others attribute it to a good contract and good relations with management. These good relations between the engineers' association and management are, in turn, credited to an enlightened personnel policy. It was noted, for example, that a young and innovating personnel director has adopted the practice of small work teams with a minimum of surveillance for engineering employees, permitting them to schedule their own work loads and exercise the personal initiative so precious to the professional worker. In addition, his personnel policy



is predicated on continuous discussion and problem solving as a means of dealing with professional employees rather than limiting contacts to formal contract negotiations.

Northern Electric — In spite of a history of negotiated contracts from 1947 to 1959, recent relations between Northern Electric and its engineering employees have not run as smoothly as those at Marconi. It will be remembered that the Northern Electric Employee Engineers Association (NEEEA) was decertified in 1959, following the amendment to the Engineers Act (Article 3.5) that made union activity a contravention of their Code of Ethics. Much of the responsibility for Article 3.5 was attributed to a senior vice president of Northern Electric who was an active and influential officer of the CIQ at the time this amendment was being promoted. This seems to have caused bitter feelings among many of the Northern Electric engineers and to have produced an atmosphere of mistrust that would colour their future relationships with the Company.

Some of the engineers, on the other hand, had become disenchanted with collective bargaining and did not regret its passing. There were those, for example, who felt that personal initiative was being inhibited by the collective agreement. Although the agreement did provide for merit increases, a rigid system of levels based primarily on seniority made these increases particularly difficult to get. Some of the harder working engineers resented a system under which their less diligent colleagues got equal pay. Others, it is said, were apathetic about the collective agreement, being more concerned with their prospects of promotion out of the bargaining unit than with improvement through collective action. Since the

NEEEA's executive was often rather conservative, it has been suggested by some informants that even they only sought election because it might be an avenue to promotion.

In spite of the detractors of collective bargaining, however, a nucleus of salaried engineers remained committed to collective action, particularly the French ones who were in contact with their confrères at the City of Montreal and in other public services. This group of interested and determined engineers has undertaken a number of initiatives toward collective action at Northern Electric since the decertification of NEEEA. As some of the problems they faced are related to the heterogeneous nature of the engineering group, a short digression is necessary to discuss the composition of this group.

1. "Employees doing engineering work" — At present there are over 600, and some estimate 900, engineers and associates employed at Northern Electric. The estimates vary because of the perennial problem of definition. The larger number covers all those considered as engineers by the Company, that is, employed to do engineering work; the smaller number covers those with engineering degrees and graduates of other disciplines doing engineering work; only about 400 are actually members of the CIQ. The majority of senior executives and intermediate supervisors are also engineers. 21/

Engineers at Northern Electric are concerned with protecting their professional status, particularly in relation to the engineering technicians. Frequently, however, their work assignments do not take account of the differences in training. Prior to 1956, for example, the Company

had a contract with Western Electric in the United States which restricted the function of the engineers in Canada to making corrections and adjustments to the American designs, virtually reducing their role to that of technicians. Since then the professional responsibilities of the engineers have increased, but the competition between the two groups of employees (engineers and technicians) is still common. Thus the engineering group places great emphasis on the steel ring, symbol of the engineering degree, which gives its wearers "status" relative to the other group.

2. Initiatives toward Collective Action — In spite of the tension between the engineers and technicians at Northern Electric, and although they could never form a common bargaining unit for certification under the Labour Code 22/, advocates of collective action have included senior technicians in their efforts to organize the engineering workers. In 1960, for example, they tried to replace the NEEEA (which had been decertified the previous year) by incorporating its former members into a syndicate under the Professional Syndicates Act. Their application to the Provincial Secretary was held up indefinitely however, due to CIQ opposition. The CIQ opposed the application on the grounds that the proposed members were not all members of the same profession. While the group applying for incorporation was not confined to CIQ members and included other engineers, graduates of other disciplines doing engineering work, and senior technicians, it has been observed that this fact alone should not have disqualified it under Article 2.1 of the Professional Syndicates Act:



...20 or more Canadian citizens, engaged in the same profession, the same employment, or in similar trades, or doing correlated work having for object the establishment of a determined product ...may group themselves into a professional syndicate and obtain, subject to certain conditions, the authorization of incorporation from the Provincial Secretary.

Clearly the members of the proposed syndicate had the technical qualifications required in Article 2.1 although some of the engineers in the group may not have fulfilled the citizenship requirement. (Northern Electric has always hired a large number of foreign engineers.) The CIQ did not raise the citizenship question, however, as it too gives temporary licenses to non-Canadian engineers who fulfill the requirements.

Although the 1960 attempt to incorporate a "professional syndicate" was unsuccessful, another group was formed to succeed the NEEEA. The name of this new group, the Council of Northern Electric Engineers and Associates (CNEEA), takes account of a new classification at Northern Electric: "engineering associate". When pressure from the CIQ forced employers to restrict the use of the title "engineer" to employees who were members of the CIQ, the Company established the category of "engineering associate" to cover its remaining engineering workers. The latter, consisting of non-registered engineering graduates, graduates of other disciplines doing engineering work, and senior engineering technicians, had until then been called "engineers" by the Company and, as such, had been eligible for membership in the NEEEA. Under the title of "engineering associate", they were now eligible for membership in the new Council of Northern Electric Engineers and Associates. The CNEEA now has more than 300 members.

When it was formed, CNEEA's declared purpose was to solve the mutual problems of its members, not to bargain. In 1963, the Company invited

CNEEA to present the grievances of the engineering employees. Twenty-seven points were submitted. These were mainly concerned with salary and questions of status such as the allocation of space, telephones, etc., but also included some professional issues such as leave to attend scientific conferences. In 1964 the Company again approached CNEEA, this time to participate in joint committees to study each of these problems. This attempt of Northern Electric to initiate a new form of industrial relations has been related to a coincidence of contemporary events.

Within the Company itself, there had been a relatively high turnover of engineering employees; outside, the CIQ was losing its battle to keep the Province from incorporating the militant syndicate of engineers at the City of Montreal. Also, one of the most active executive committees was then directing the CNEEA and was stimulating an interest in unionism among the members. Finally, there was a change in the top management of Northern Electric, a young man having succeeded to the presidency of the Company.

To ward off the development of unionism at this point, the Company adopted a two-pronged approach. It promoted some of the key leaders, so that they would leave CNEEA, and it set up the problem-oriented committees. Management and the engineers had equal representation on these committees which were charged with discussing specific problems and making recommendations. However, there was no undertaking by the Company to implement the recommendations. The process at best was complicated and uncertain. Once a committee submitted its proposals, they would be referred to the engineering departments for approval. If approved at this stage, the proposal would become an "implementation project" still subject to approval or rejection by the senior executives.

This alternative to collective bargaining has not satisfied all the engineering employees. In 1966 the Professional Syndicate of Northern Electric Engineers (PSNEE) was incorporated under the Professional Syndicates Act. PSNEE is a "professional syndicate" in the strictest sense of the term, being limited to engineering employees who are members of the CIQ; consequently there could be no opposition from the Corporation. Because of the restricted membership requirement, not all CNEEA members are eligible for PSNEE but all PSNEE members can and do belong to CNEEA. Ties between the two groups are very close and they publish a journal jointly.

PSNEE now has less than 100 members, but it appears to be growing rapidly. If present attempts to recruit engineering department chiefs are successful, the prestige and strength of the Syndicate would be significantly enhanced. The future course of action by the Syndicate is uncertain, however. The Professional Syndicates Act, as we have seen, has no provision compelling an employer to bargain collectively and yet, while some syndicate spokesmen talk of negotiating a contract, they will not go so far as to seek certification under the Labour Code.

PSNEE is definitely against affiliation with the CNTU, at least for the present, so this rules out assistance from FICQ. On the other hand, some Northern Electric engineers have intimated that they would "consider" affiliation with the FICQ if the latter would reassess its own relationship with the CNTU, perhaps by giving its affiliates the choice of whether or not to belong to the central labour body.

Some see another possibility of outside support for PSNEE in the Federation of Employee Engineers (FEE), a very different type of



organization from FICQ. Established in 1966 by CIQ members of non-bargaining associations of salaried engineers <sup>23/</sup>, FEE has a close relationship with the CIQ and, unlike the FICQ, it has no ideological conflict with the Corporation. According to its President, Ralph Anania (a Bell Telephone engineer who is also a Councillor of CIQ), FEE was born out of a need for collective action other than through the syndicates. <sup>24/</sup>

The activities of CNEEA and the incorporation of PSNEE reflect some strivings in the engineering group at Northern Electric. With such a heterogeneous group of employees in engineering work in the Company, however, and with the registered engineers among them talking of outside support from such radically different organizations as FICQ and FEE, the future direction of collective action remains uncertain.

RCA Victor — Although the efforts to establish formal collective bargaining for salaried engineers at RCA Victor have so far been unsuccessful, the experience of this group is of considerable general interest. In particular it illustrates how a dispute over definition can frustrate the establishment of a bargaining relationship.

RCA has about 400 employees "doing engineering work". Of these, only 160-175 are actually members of the CIQ, but a large number are immigrant engineers with professional diplomas from European universities. The rest are technicians employed as engineers. In spite of Company arguments to the contrary, the Association of Salaried Employees of RCA Victor maintains that its original certification order (1959) and its present collective agreement give it jurisdiction over the engineering workers, with the exception of those who are employed in a supervisory capacity and those who are members of the CIQ. The collective agreement between the Association and RCA reads as follows:

The Company recognizes the Association as the sole bargaining agent in respect of all salaried employees ... save and except managers, superintendents, foremen, assistant foremen, group supervisors, salesmen, secretaries to Division Managers or officials of higher rank, timestudy and process engineers, Personnel Department employees (personnel interviewers and personnel record clerks), professional engineers and non-registered technicians .... 25/ (Underlining mine)

According to the Association, the term "professional engineer" in Quebec applies only to registered members of the CIQ; consequently it claims to represent the rest of the engineering workers. The Company, on the other hand, subscribes to a broader definition of "professional engineer" and interprets the Agreement to exclude all its employees "doing engineering work", or at least all those with an engineering degree, whether or not they have been registered by the CIQ.

Article 18.01 of the most recent collective agreement, by providing for an automatic checkoff of Association dues from the wages of all eligible members of the bargaining unit (Rand Formula) has brought the disagreement over definition to a head. The Association has filed a grievance over RCA's refusal to apply the Rand formula in the case of the non-registered engineers, holding the Company to be in violation of the Agreement. The Company, on the other hand, noting that it has never before bargained collectively with any of its engineering employees, argues that there is no precedent to justify their inclusion in the bargaining unit. The issue is presently under consideration by a board of arbitration. As the problem of definition is of wide interest to engineering workers and their employers in other companies, the decision of this board should have ramifications beyond the particular dispute at RCA.

With the new Labour Code (1964) specifically granting collective bargaining rights to corporate engineers (CIQ members), the Salaried Employees Association of RCA Victor is now looking to this group, as well as to the non-registered engineers, as prospective members. While it is recognized that the registered engineers, at least, would have to form a group apart from the present bargaining unit, to conform to the provisions of the Labour Code, there is nothing in the Code to prevent a unit of professional engineers from being affiliated with the Association.

The Association claims that at least 90% of the salaried engineers, both registered and non-registered, are seriously interested in joining it. 26/ If this estimate is correct, and the Association presses for their rights under the Labour Code, a new professional bargaining unit may be on the labour horizon. The situation at RCA Victor bears watching in the next few months.

Engineering Syndicates in the Public Sector:  
Successful Organization by the CNTU

In contrast to the groping in some private companies, a clearcut pattern has emerged in the public sector. Engineering syndicates, affiliated with the CNTU, have already established collective bargaining relationships, and negotiated collective agreements with the City of Montreal, Hydro-Québec and the provincial Civil Service. Let us now discuss the formation of these syndicates, the demands they have made, and the settlements they have achieved.

City of Montreal — The year 1963 was a crucial one in the history of professional syndicalism. Although formal amendments to the laws were still being debated 27/, the psychological climate was already ripe for



the birth of the first engineering union. Le Syndicat professionnel des ingénieurs de la Ville de Montréal (SPIVM) held its founding meeting in October, just five months after the City had turned down the Association of Professional Civil Servants in its demands for professional pay increases. 28/ A few important events had preceded this final step:

1. Final Stages in the Debate — A meeting of the Employee Engineers Committee of the CIQ was called on January 29 to discuss the controversial issue of professional unionism. In reporting on their discussions with outside authorities, some members cited H.D. Woods, a recognized expert in labour relations, as being in favour of collective bargaining for employee engineers within the provisions of a labour code. At the same meeting, Guy Favreau Q.C., legal counsel of the CIQ, pointed out that engineers, though unable to form unions under existing labour legislation, were free to incorporate under the Professional Syndicates Act or Part 3 of the Companies Act. 29/ In view of this legal right to incorporate under these two Acts, he said, Article 3.5 of the Code of Ethics would become ultra vires if it were used by the CIQ to forbid the formation of professional syndicates. As noted earlier in this study, Favreau's opinion on this matter was not brought to the attention of the general membership of the CIQ. 30/

Some of the members of the Employee Engineers Committee were particularly impressed by the discussion at this meeting. It will be remembered that two of them, Adrien Lemelin and Roger Turgeon, subsequently resigned from the Committee and dissociated themselves from the anti-union brief that the CIQ submitted to the Provincial Government. 31/ Lemelin undertook a personal campaign to educate engineers as to their "rights". To

achieve this purpose, he circulated a summary of J.R. Cardin's views on "cadres unionism" among his colleagues at Hydro and elsewhere in Montreal.

Some of the engineers at the City of Montreal were already familiar with the history of the engineering syndicates in France and were favourable to the idea of "cadres" unionism. A group of these engineers organized a meeting and invited a well-known labour lawyer, Marc Lapointe, to speak on proposals for new labour legislation. Lapointe expressed himself strongly in favour of professional syndicalism and urged the immediate formation of "Associations" to act as pressure groups vis-à-vis the Government.

At about the same time, Jean Marchand, who was then President of the CNTU, appeared before the Parliamentary Committee on Labour Relations and demanded a labour code that would provide rights of association, and collective bargaining, for all salaried workers, professionals included. The engineers of the City of Montreal now felt they had found a champion of their rights and sent Marchand a telegram of congratulations and support. Two hundred and fifty of them also sent a petition to the Prime Minister of Quebec, denouncing the Report that had been sent to the provincial authorities by the Council of the CIQ.

A month later, July 1953, the Council of the Corporation published a strongly anti-union article by its Secretary General, Pierre Bournival, but it refused to allow any rebuttal in the pages of its Journal. Engineer André McDonnell, who had prepared a rebuttal, brought the argument to the attention of Gérard Pelletier, editor of La Presse. Pelletier agreed to publish a series of articles on the situation of the engineers in Quebec and assigned one of his journalists, Teddy Chevalot, to the task. Pelletier felt

that the articles would serve a dual purpose: to clarify the problem for the engineers themselves and to educate the public as well. 32/

In the course of his research, Chevalot contacted Jean-Paul Geoffroy, legal adviser to the CNTU, for his opinion on a number of issues. Following these interviews, he arranged the first of a series of meetings between Geoffroy and the City engineers. Geoffroy's subsequent role as their legal adviser has already been described. 33/

2. The Founding of SPIVM — Recognition and incorporation — Encouraged by Geoffroy's advice that Article 3.5 was illegal if applied to professional syndicates, and knowing that Favreau's opinion was the same, a group of pro-union engineers at the City of Montreal felt confident in taking action. They formed a provisional committee and contacted like-minded engineers at Hydro-Quebec and the Provincial Government. The founding meeting of SPIVM was called on October 9, 1963. The organizers decided that all City engineers could join except those in upper management and supervisory positions. Initial membership was 225 out of a possible 290. 34/ Jean Marchand addressed the founding meeting and the membership voted for affiliation with the CNTU.

The leaders of SPIVM did not anticipate any difficulty when they applied to the Provincial Secretary for incorporation under the Professional Syndicates Act (Oct. 29, 1963). 35/ The CIQ, however, asked for and obtained a delay in the proceedings so that it might present its own point of view. On December 20 the Corporation presented a memorandum to the Government affirming its own jurisdiction over employee engineers and denying both the right and the propriety of unionization for these professional workers. It urged the Secretary to reject SPIVM's request for



incorporation as a professional syndicate. The Secretary invited the parties to a meeting in January 1964. After hearing both sides, the application of SPIVM was left in abeyance.

Impatient with the delay, the Syndicate leaders decided on other tactics. Realizing that incorporation was only a means to an end, negotiation with the employer, and confident that their application would eventually be granted, they decided to force recognition by the City Administration. Up to this point, the City had insisted that it would not negotiate until the Syndicate was legally incorporated. At a general meeting on July 15, 1964, the City engineers voted for a work stoppage if the Syndicate was not recognized within thirty-six hours.

This brought matters to a head. The engineers, with the help of the CNTU, had chosen an opportune time to deliver their threat: two major projects were under way in which they were vitally needed, a subway and a world fair. The Chairman of the Executive Committee (Lucien Saulnier) recognized SPIVM the next day, July 16.

Although the Syndicate then relaxed its pressure on the Provincial Secretary, it was officially incorporated in the fall of 1964. However, there was no guarantee that management would consider all Syndicate members eligible for the bargaining unit. Another aspect of the battle for recognition was in prospect.

3. Collective Bargaining -- In negotiating their first collective agreement with the City, the engineers stressed two main issues: union jurisdiction (the area of the bargaining unit) and salary levels. They also insisted on minimum "professional" guarantees.

Basing their judgment on the American experience, Syndicate negotiators treated the issue of jurisdiction as a matter of life and death. Being convinced that the demise of engineers' syndicates in the United States was related to the limited scope of their bargaining units 36/, SPIVM leaders were determined to avoid the same mistake. On the issue of salaries, the Syndicate's policy was to break the established pattern of salary levels for Canadian engineers, as set out in the Salary Scale published by the Canadian Council of Engineers, and establish a new evaluation of the worth of an engineer's work.

SPIVM submitted its first contract proposals to the City in October, 1964 but final agreement was not reached until May. In making its counter proposals to the syndicate, the City had tied its wage offer to the 4% increase accorded its manual and white collar workers; it also refused to recognize the jurisdiction claimed by the syndicate. After a protracted period of negotiation and recourse to a Government appointed conciliator (Gilles Desmarais), it took a strike threat (supported by a vote of 93% of the membership) to produce the ultimate settlement.

4. The First Collective Agreement — The first collective agreement between the City of Montreal and SPIVM was signed on May 26, 1965 to cover the period from May 1, 1964 to April 30, 1967.

The Agreement embodied the recommendations of the Conciliator in the key matter of the jurisdiction of the Syndicate. These recommendations were, in effect, identical with the original union position. Demarais agreed with SPIVM's negotiators that the Labour Code, by excluding all persons exercising supervisory authority, was not an appropriate vehicle

for defining professional bargaining units. Instead, he stressed the concept of "profession" as the main criterion of the Syndicate's jurisdiction (as provided in the Professional Syndicates Act).

The bargaining unit, as finally defined, excluded only those engineers exercising hiring and firing authority over other engineers, about thirty-five in all. 37/ Those excluded were: Directors and Assistant Directors of Services, senior engineers of the Technical Section and their assistants, engineers who are supervisors and their assistants. 38/ By agreeing to this definition of the bargaining unit, the City recognized the jurisdiction of SPIVM over more than 90% of its salaried engineers. 39/ With relatively few positions excluded from the bargaining unit, the Syndicate was satisfied that it could not be easily broken by the absorption of its leaders into management positions.

In spite of the initial resistance of the City Executive, the first Collective Agreement brought substantial financial benefits to SPIVM and broke the established pay scale for employee engineers. 40/ The Syndicate estimates that salary increases spread over a three-year contract period raised the median salary of City engineers from \$8,400 to \$12,300, an increase of fifty per cent. 41/

SPIVM hoped that the engineers, being better paid, would now be better utilized. They did, in fact, secure a professional clause providing that:

For the duration of the present contract, engineers will be assigned to positions whose nature demands the technical knowledge of an engineer. (Article 22.03)

Of the few professional clauses achieved in this first agreement, union informants attach particular significance to Articles 16.01 and 16.02,



which, they feel, guarantee the right of the engineers to insist on ethical practices in their professional work without fear of discrimination by their employer. Article 16.01 states that every engineer must sign his own reports and plans, while Article 16.02 gives him the right to refuse to sign any technical report that he cannot approve, as a matter of professional conscience. Article 16.04 reinforces this guarantee by providing that any engineer can see his own file in the Personnel Office if and when he so desires.

The City did not, of course, accede to all of the union's professional demands and some were carried over to the second round of contract negotiations. 42/ Others were adopted in modified form. For example, the City refused to establish a Professional Relations Committee, with joint union-management representation, as requested by SPIVM. As a compromise, however, Article 20.05 of the Agreement gives Syndicate leaders the right to make representations to the Director of Personnel on matters of "mutual interest". Although the City need not comply with these representations, it must transmit a written response through the Personnel Director. The clause has been used sparingly but with success, according to informants in the Syndicate. It has the indirect effect, they say, of making the Administration take care that its decisions are incontestable.

Other clauses, though common to most collective agreements, were new to the engineers. These included provisions for: overtime pay, grievance procedure, holidays and days off, financial arrangements if fired, sickness and accident plans, seniority and promotion regulations, insurance and indemnities, car allowance, posting of relevant notices, hygienic maintenance of work places. In addition, the contract assured the retention of

all rights already granted to engineers by the City (Article 27.01) and provided for relocating any engineer displaced by the abolition of a job due to technological or administrative change (Article 22.01).

The experience under the first Agreement seems to have been peaceful, relatively few grievances were raised. Negotiations for the second contract began in May 1967 on the initiative of the City. As in the first round of collective bargaining, discussions between the parties again reached an impasse, requiring the appointment of a mediator.

5. Second Contract Negotiations, 1967: Emphasis on Professional Issues —

Nine other professional syndicates at the City 43/ had joined the FICQ since 1965 and, with the engineers, formed an interprofessional council late in 1966. This interprofessional group originally intended to negotiate a joint collective agreement, but subsequently abandoned the plan in favour of separate bargaining and informal consultation. SPIVM did, however, consult with the executives of these other professional unions in its latest negotiations with the City.

Having established a generally satisfactory salary scale in its first Collective Agreement, and cognizant of a growing resistance by all levels of government to financial pressures in the public sector, the Syndicate placed greater emphasis on professional clauses than on salary considerations in its second round of collective bargaining. This time it made the following professional demands: 44/

**PROFESSIONAL RIGHTS**

The right of an engineer to be informed in writing by his immediate superior of the scope as well as the restrictions of his work; the justification for a technical decision which the engineer does not agree with; the right to be informed in

writing of any unfavourable report his superiors may write about him and the right to discuss the report and justify himself; reports of disciplinary measures should be withdrawn from a man's file after 12 months; when City engineers work on a project with engineers from other organizations, the technical decisions of the City engineers should take precedence.

#### PARALLEL PATH ADVANCEMENT

Each level in the salary scale should give equal recognition and reward to technical responsibility as well as administrative responsibility. This principle involves recognition of the intrinsic value of technical competence and moreover will permit a more rational utilisation of the various skills and aptitudes which engineers possess.

#### A CAREER PLAN

There should be provision for annual advancement and salary increases which depend on merit and experience, thus allowing the engineer to have a useful career in the service of the City.

#### CONTINUING EDUCATION

In view of the modern professional man's need to continue his education throughout his career, the City engineers are asking for the following: one year of sabbatical leave after more than five years service with the City provided the engineer has been accepted for an approved course at a University or other educational institution and provided that a panel appointed jointly by the Syndicate and the City have approved such leave; while on leave, a 60% salary for bachelors and 70 to 80% salary for married men; the engineer shall undertake to remain in the employ of the City for at least 2 years after his return from such leave; engineers who do not wish to take sabbatical leave should have the right to do six week refresher courses every ten years while receiving full salary.

6. The Second Collective Agreement — A new collective agreement had just been signed when this paper was being completed. This agreement provides some increases in salary, and adopts the Rand Formula (Article 5.02 - 5.03), but the Syndicate did not succeed in achieving many of its professional demands. These will undoubtedly re-appear in future bargaining sessions!



The few professional improvement clauses that were secured may be found in Annexe C to the Agreement. The City agrees to pay half the registration and tuition fee of any course approved by the City and which is relevant to the nature of an engineer's work or that could qualify him for a higher position. If the City or government authorities require an engineer to take a course, the City would pay the total cost of registration and tuition and, if the course takes place during working hours, there would be no loss of pay and no requirement for the engineer to make up time.

The City and SPIVM also undertook to set up a joint committee— within two weeks of signing the contract— to study means to establish a career plan for engineers, to be part of the next collective agreement.

Hydro-Quebec — The City of Montreal engineers had not acted in isolation. Before taking their final steps toward professional syndicalism they had, in fact, been in contact with like-minded confrères at Hydro-Quebec and the Provincial Government. These groups were soon to follow on the road to professional syndicalism. However, for the Hydro engineers in particular, the journey would be a rough one.

Hydro engineers, by virtue of their work in widely separated geographic locations, and differences in their employment background <sup>45/</sup>, were a less cohesive group and more difficult to organize than their counterparts in municipal employment. It was also more difficult to reach agreement on the jurisdiction of the Syndicate at Hydro than had been the case at the City of Montreal. Two recognition strikes occurred before a contract was finally signed.

Only one matter was settled more easily at Hydro than at the City of Montreal. SPIVM had successfully paved the way for the incorporation of an engineers union under the Professional Syndicates Act and Hydro engineers profited by this precedent. While the CIQ made a token protest against the application by the Hydro group, the latter had no real problem in being incorporated.

1. From Communications Group to Professional Syndicate — A Hydro-Quebec Communications Group had been established in 1960, under the auspices of the CIQ, in line with the Corporation's efforts to ward off professional unionism. 46/ This group originally comprised 80% of the Hydro engineers, most of them opposed to unionization, but many of them were soon to change their minds. In 1963, for example, while the Group's executive committee officially supported the anti-union position of the CIQ, some of its members actively opposed it. It will be remembered that Adrien Lemelin (who had founded the Communications Group) publicly dissociated himself from the CIQ's Report in 1963. 47/ With a small group of engineering colleagues from Hydro, he joined the Montreal engineers in their petition of protest to the government. 48/

By early 1964, a group of Hydro engineers had set up a provisional committee with the idea of forming a union. On April 1, 1964 they held the founding meeting of Le Syndicat Professionnel des Ingénieurs de l'Hydro-Québec (SPIHQ). Seventy-five engineers were present. They adopted a constitution, decided to incorporate as a professional syndicate, and voted to affiliate with the CNTU.

The membership grew slowly during the first year of the Syndicate's existence as many Hydro engineers objected to affiliation with a central

labour federation. Jean-Paul Geoffroy met constantly with groups of undecided engineers and is given the major credit for convincing them to join. Again and again the engineers would ask:

Will the CNTU force us to go on strike?

The theme of Geoffroy's response never varied:

No, each syndicate is autonomous in such matters;  
the Confederation has other duties.

By December 14, 1964 a majority of eligible Hydro engineers had signed up as members of the Syndicate 49/, although some still had reservations about affiliation with the CNTU. 50/ Before the month was over, the remaining members of the Communications Group decided to disband the Group. The first phase, organizing the Syndicate, was accomplished, but the battle for recognition would be long and hard.

2. 1965: First "Study Sessions" for Recognition — The dispute over the jurisdiction of the Syndicate was, in principle, the same as that at the City of Montreal. In practice, however, it proved more difficult to settle. SPIHQ demanded a broad professional bargaining unit, "cadres" unionism on the pattern established by SPIVM. Like SPIVM it repudiated the Labour Code, because of its rigid definition of employee status, as an instrument for determining the bargaining unit. The Hydro Commission, on the other hand, insisted that the bargaining unit be based on the provisions of the Code and wanted the Labour Relations Board to decide on management exclusions. The ultimate settlement was reached by a test of strength.

SPIHQ made its first recognition demands on January 22, 1965. With the experience of SPIVM as a precedent, the Syndicate asked Hydro to recognize it as the sole bargaining agent for 470 of its 550 engineers.



SPIHQ conceded that the remaining engineers were not unionizable, by virtue of their authority over other engineers. Basing its own position on a strict interpretation of the Labour Code, Hydro countered that only 278 engineers were eligible for the bargaining unit. The battle lines were drawn and neither side would budge.

After some months of deadlock, union militants became convinced that a strike was the only solution. On April 24, 1965 a General Assembly of the Syndicate membership gave Hydro two weeks to agree on the bargaining unit; otherwise SPIHQ would stop work for "study sessions", the professional euphemism for a strike. Although many of the engineers were, in fact, disturbed by the idea of withdrawing professional services, "study sessions" began on May 10 and lasted for five weeks. Some 300 of the 365 Syndicate members participated; five of these were not in the proposed jurisdiction.

Both sides agree that René Lévesque, the Minister responsible for Hydro at the time, put pressure on Hydro executives to effect a settlement on the Syndicate's terms. The two parties signed a "Lettre d'Entente" on June 14, 1965 recognizing the Syndicate as bargaining agent for 443 Hydro engineers. SPIHQ had only conceded one point; it dropped its original insistence that superintendents be included in the bargaining unit. As a management spokesman noted with some satisfaction, none of the superintendents concerned had been willing to join the union! (Hydro executives insist that most engineers presently excluded from the bargaining unit are also opposed to membership in SPIHQ).

The letter of agreement between Hydro and SPIHQ provided for the exclusion from the bargaining unit of the first three levels of management

as well as any engineer acting as sole assistant to a person in the third level. 51/ All engineers in the Personnel Department were automatically excluded. One matter was left open for discussion. In certain regions, the Letter stated, an engineer at the third level "may or may not" be in the Syndicate's jurisdiction. 52/ It left the matter to be decided by a joint committee on jurisdiction and provided that any questions not settled by this committee would be arbitrated by Jean-Réal Cardin.

With the criteria for exclusions established, Hydro was required to furnish a list of positions and names of engineers excluded at the time of the agreement. This contained the germ of the next recognition dispute. With a subsequent administrative reorganization at the regional level, a larger number of persons would be in the excluded categories.

The "Lettre d'Entente", in addition to establishing the jurisdiction of the Syndicate, recognized the right of association for Hydro engineers and provided for a checkoff of union dues. The Syndicate was given two weeks to prove that it had a majority of the proposed unit and was required to ratify the Letter by a general assembly of its membership. The ratification of the Letter brought the study sessions to an end and paved the way for the first contract negotiations.

3. 1966: First Contract Negotiations; Second Recognition Dispute — SPIHQ presented its first contract demands to the Commission on September 7, 1965. Hydro replied with counter-proposals on October 18. During the next few months, however, only nine meetings were held and the parties remained far apart on most issues. In January, SPIHQ asked for a conciliator under Chapter III of the Labour Code, even though it had refused to be certified

under the Code. Hydro agreed to submit to this section of the Code. This would freeze working conditions and avoid a work stoppage for a 90-day period.

With two weeks remaining in the conciliation period, and few substantive issues resolved, a structural reorganization of Hydro revived the dispute on the bargaining unit. Claims and counterclaims by the parties make it difficult to establish the facts.

Union informants insist that administrative changes at the regional level and at construction sites placed a disproportionate number of engineers in the upper levels of management for the purpose of excluding them from the bargaining unit. 53/ When they signed the "Lettre d'Entente" in June 1965, recognizing the Syndicate's jurisdiction over 443 of the 550 engineers at Hydro, SPIHQ negotiators expected some additional exclusions, possibly 30, to follow the revision in structure. They cried deception, however, when Hydro increased the list of exclusions to 250. Hydro officials, on the other hand, deny that the Commission broke faith. They insist, while the union denies it, that Mr. Robert Boyd, Director General of Hydro, advised SPIHQ negotiators, at the time the Lettre d'Entente was signed, that the number of engineers ineligible for the bargaining unit could reach a maximum of 250 when the administrative changes were implemented.

In announcing the administrative reorganization to its salaried engineers, Hydro also proposed salary increases effective April 5 (the date the engineers could legally strike, i.e., 90 days after the request for conciliation). Only those who stayed at work were to be eligible for the increase. Each member of the bargaining unit would receive \$500 if SPIHQ would accept the jurisdiction proposed by Hydro. The details of the



administrative reorganization and the offer of a salary increase were published in Hydro's bulletin for "cadres" employees, Information Cadres, on March 26, 1966 and issued to every engineer in the employ of the Commission. The Syndicate reacted with a strike.

The strike began on April 15 and lasted for eleven bitter weeks although about a hundred engineers drifted back to work before it ended. About ten weeks of the work stoppage were spent arguing the jurisdictional dispute; most of the substantive issues were left to the end.

The settlement (June 14, 1966) respected the principle established in the first agreement, namely the exclusion from the bargaining unit of any engineer whose position carried authority over the career of other engineers or professionals. The same levels of management were excluded under the Contract as in the original letter of agreement. For those employed in newly created positions in the regions and construction sites or to fill vacancies occurring at the third level after June 15, 1966 the criteria for exclusions were set out as follows:

- (1) Authority of a superior over an engineer or other professional. An engineer is considered in authority if he has influence on the career of another engineer or professional in all the following respects: promotion, salary, report on his work and recommendations on disciplinary matters,

and/or

- (2) responsibility of directing the activities of a district as principal representative of Hydro-Quebec. 54/

Engineers employed in a confidential capacity as assistants to Directors General, Directors or Assistant Directors were added to the excluded categories.

As in the former agreement, disputes on jurisdiction that could not be settled by a joint committee of the parties were to be submitted to Jean-Réal Cardin for final and binding arbitration.

In February 1967 the joint committee on jurisdiction agreed to include 365 engineers in the bargaining unit (compared with 443 before the administrative reorganization). With the hiring of 40 new graduates in the spring of that year, and the departure of 5 engineering employees, the number eligible for the bargaining unit reached 400 (265 are union members). 55/

By the summer of 1967 about 30 positions remained in dispute and were submitted to Cardin for arbitration. Two main issues were involved. First there was the question of whether or not the collective agreement was restricted to members of the CIQ. Second, there were disputes over management exclusions, particularly in newly created positions.

1) Hydro now objected on principle to Syndicate jurisdiction over any of the non-registered engineers in its employ (about 15 persons were involved) although some of these had been on its original list of unionizable employees (June 15, 1965). Basing its argument on Article 2(d) of the Engineers Act, which restricts the designation "engineer" to members of the CIQ, Hydro maintained that all non-members of the Corporation were automatically excluded from the Collective Agreement. 56/ Thus when the Syndicate challenged the exclusion of certain non-registered engineers from the bargaining unit, Hydro objected that Cardin, as arbitrator of disputes under the agreement, had no jurisdiction to hear the case.

SPIHQ argued, on the other hand, that Hydro's practice of hiring these persons (mainly immigrants with engineering degrees) for engineering work was de facto recognition of their status as engineers. For this reason, SPIHQ noted (and Cardin concurred), a functional definition of "engineer", rather than a legalistic one, would be more appropriate to the employment practices at Hydro.

Although Management challenged his jurisdiction in the case, Cardin received, and upheld, the Syndicate's submission. Cardin concluded that:

the arbitrator has no right to remove from the collective agreement employees who, while effectively performing the work of an engineer, while probably being engineers by profession, but because of certain formal requirements of the Corporation (e.g., citizenship, examinations not yet passed, and various other restrictions) are not members of the Corporation ...

Any exclusion on this basis is not in the competence of the present arbitrator ...

If employees at Hydro-Québec are in effect doing the work of an engineer without being members of the CIQ, we feel that the arbitrator, by virtue of his mandate under the collective agreement, has the right to decide their case on the basis of merit, (i.e., according to the criteria for eligibility applied to other engineers [translation mine]). 57/

While the parties were bound by Cardin's award for the duration of the existing agreement, Hydro was determined to avoid ambiguity on this matter in the future. Thus it advised the Syndicate that only engineers "au sens de la loi", that is, members of the CIQ, would be covered in their next collective agreement. SPIHQ did not press its objections. Insistence on a functional definition, it was felt, might remove a larger number of registered engineers from the bargaining unit, engineers who are hired by Hydro for other than strictly engineering functions, but who have always been represented by the Syndicate. 58/



2) The remaining disputes submitted to Cardin were directly concerned with management exclusions. The Syndicate questioned a few excluded positions at the third level of management as well as a number of exclusions arising from administrative changes in the regions and construction sites. SPIHQ insisted that the occupants of some newly created "supervisory" positions still did the same work as they had when they were in the bargaining unit and disputed Management's right to exclude them by virtue of a simple change in title. With only one exception, Cardin upheld Hydro's position in these disputes over management exclusions.

4. The First Collective Agreement — While the dispute over the bargaining unit had dominated the first collective negotiations between Hydro and its engineering employees 59/, substantive issues were not ignored in the agreement that was finally signed. The contract (effective from July 25, 1966 to December 31, 1967) contained many provisions that have become standard in collective agreements for non-professional workers. These provisions concern hours of work, statutory holidays, sick leave and pension plans, travel and displacement allowances, checkoff of union dues, grievance procedure, etc. For the first time, there was a provision for overtime pay for Hydro engineers (Article 8.03). Furthermore, a job security clause, like that negotiated for the engineers at the City of Montreal, assured that no engineer could be fired or have his salary reduced because of organizational changes or technological innovations (Article 17.03).

Hydro engineers achieved fairly substantial salary increases in their first experience with collective bargaining. In addition, they secured particular clauses affecting their position as professional employees. I shall deal with these in some detail after a brief account of the salary provisions.

A substantial salary increase was introduced during the conciliation period. It has been estimated that the average annual salary of unionizable engineers was \$8,150 before April 5, 1966. On that date, one week before the strike began, increases between \$400 and \$1400, depending on grade and merit, raised this average to \$9,250. These increases were retroactive to December 22, 1965, but only for those engineers who did not go out on strike. The contract itself provided for a lump sum payment of \$500 on return to work and a 6.5% increase, plus an increment for merit, effective December 22, 1966. This brought the average salary to \$10,250. 60/ Any engineer who did not receive a merit increase under this clause could protest by using the grievance procedure.

Certain professional rights were written into the Contract: the right of an engineer to sign his own work (Article 5.01), the right to place his seal upon work which he alone prepared, or whose preparation he directed (Article 5.02), and, the ultimate professional protection, which SPIVM had already achieved, the right to refuse to sign work if he does not agree with it for ethical reasons (Article 5.03).

Under the Collective Agreement, vacations are no longer based on years of service to Hydro-Québec, but on years since graduation: less than eight years since graduation, two weeks; from eight to twenty years since graduation, three weeks (Article 23). This clause breaks new ground by recognizing professional seniority over company seniority.

In the matter of promotions, the contract provides that recommendations for vacant positions will be made by a committee formed of two men appointed by the Syndicate and three appointed by Management. However,

Management reserves the right to choose an applicant other than the one recommended by the Committee.

In response to SPIHQ's proposal for continuous discussion on professional and administrative issues, Hydro agreed, where the City had not, to the establishment of a Professional Relations Committee. This Committee was composed of three representatives from Management and three from the Syndicate and was to study and make recommendations on professional and administrative problems. Management was bound to consider (not implement) the recommendations and inform the Committee of its decisions.

Certain Syndicate proposals were not accepted for the first contract, but will undoubtedly be carried over into future negotiations. For example, SPIHQ was frustrated in its efforts to secure patent rights for Hydro engineers, payment for continuing education, even provision to attend educational or technical conferences. Nationalistically minded engineers had wanted a specific commitment that their reports need not be translated into English. Hydro maintained, however, that French was, de facto, its working language and that nothing to this effect need be included in the Contract.

In spite of the bitterness in reaching agreement, the experience under the Contract has been peaceful. Relatively few grievances have been filed. The second round of collective bargaining should show whether this is an indication of satisfaction by the parties or simply the lull before another storm.

Government of Quebec — The engineering group was in the forefront of the professional civil servants who wanted to bargain collectively with



the Provincial Government. Like their confrères at the City of Montreal and Hydro-Québec, the government engineers incorporated under the Professional Syndicates Act as the first step toward establishing a bargaining relationship. However, unlike SPIVM and SPIHQ who bypassed the Labour Code in establishing their bargaining units, le Syndicat professionnel des Ingénieurs du Gouvernement du Québec (SPIGQ) was recognized by the employer under the relevant provisions of the Civil Service Act. 61/

1. The Establishment of a Professional Syndicate (1964) — Quebec  
government engineers, like those at Hydro, were encouraged toward professional syndicalism by the innovating group at the City of Montreal. Toward the end of September, 1963, the first of a series of meetings took place between engineers in the Provincial Civil Service and representatives of SPIVM. Participants in these meetings analysed the common problems of engineers in municipal and provincial employment and discussed the advantages of professional syndicalism. Encouraged by these discussions and by the precedent of SPIVM, 75 government engineers met on February 28, 1964 for the founding meeting of SPIGQ. They adopted a constitution, elected officers, and voted in principle to affiliate with a labour federation.

Having increased its membership to 360 by the fall of 1964, SPIGQ decided to apply for incorporation under the Professional Syndicates Act. The Government, however, was reluctant to grant incorporation to a professional syndicate of its own employees and the engineers encountered considerably more difficulty and delay than they had anticipated. It took a strike threat—approved by a general assembly of the Syndicate—to bring matters to a head. Incorporation was granted on October 9, 1964.

2. Recognition of the Syndicate — SPIGQ's next goal was to get recognition as bargaining agent for the engineers and to begin negotiations with the Government. Its initial request was met by the historic, but short-lived, pronouncement of Premier Lesage: "The Queen does not negotiate."

At this point the engineers decided to press for a change in the law. They joined their efforts with those of other interested parties who were trying to have the provisions of the Labour Code extended to employees in the Civil Service. The Fédération des Ingénieurs du Québec (FIQ) 62/, backed by the CNTU, exerted considerable pressure on the Government. By July 1965 a new Civil Service Act was passed, giving collective bargaining rights to virtually all civil servants in the Province, including the professionals. This Act was more flexible than the Labour Code. While the Code restricted professional bargaining units to members of the same profession, the Civil Service Act gave the professional group the choice of forming single or multi-professional bargaining units. 63/ By December 1965, SPIGQ had been officially recognized as bargaining agent for the government engineers.

The first negotiations began in December 1965. SPIGQ bargained with five other syndicates of professional workers, all affiliated with the CNTU. 64/ These formed a Council of Professional Syndicates and presented a joint front to the Government. The president of SPIGQ headed the Council at the bargaining table. While a separate contract was signed between the Government and each of the professional syndicates represented by the Council, these contracts were identical in all aspects but salary scales and specific management exclusions. 65/

3. Contract Negotiations and Strike Action — The engineers had three major proposals:

a) The establishment of a career plan that would provide for promotion by competitive exams, encourage continuing education, and utilize engineering employees to better advantage. The latter purpose, they noted, would be served by abolishing "moonlighting" on the part of the engineers, and as a corollary, abolishing the Government practice of hiring high-priced consulting engineers for its important engineering work. Finally the plan would protect important professional prerogatives such as signing rights for the engineers.

b) The formation of joint committees of engineers (or other professionals) and Senior Civil Servants to reconcile the technical and scientific imperatives of the engineers (or other professionals) with realistic political choices. By participating in decision-making through continuous negotiation, the engineers, they felt, would have better relations with their immediate superiors and escape the bureaucratic apathy that has characterized the Civil Service. An increased sense of participation, SPIGQ's negotiators maintained, could only result in better professional service.

c) A substantial increase in salary levels which, they complained, were far below those of engineers in the private sector and below the salary scale negotiated at the City and Hydro-Québec. Decent salaries for professional engineers, they maintained, would increase the prestige of Civil Service engineers and raise the level of other Government employees.

Professional demands were justified by union negotiators as a way of improving the public service. With the prospect of a challenging and financially rewarding career, they argued, qualified young professionals



could be motivated to remain in Government employment. By upgrading the quality of professional civil servants, they noted, the Government would be furthering its own declared policy of "la revalorisation de la fonction publique". 66/

Negotiations on the professional clauses went well but reached an impasse on the question of salaries. The Government would not recognize the Council as negotiator for the syndicates when it came to financial matters. The syndicates wanted to negotiate an increase to apply equally to all the professionals; the Government felt that each should be treated differently. Moreover the syndicates complained that Government negotiators were powerless to effect a financial settlement and charged them with deliberately stalling because of the election campaign. By May 9, 1966 the deadlock erupted in "study sessions" that would last till July 28.

The Government accused the syndicates of conducting an illegal strike as they had not asked the Minister of Labour for a conciliator. The syndicates countered that conciliation would be a farce, with the Government already a party to the dispute. The engineers were particularly embittered to find their work done by high priced consulting engineers during the strike. If the Government could pay the fees of private consultants, they complained, why not agree to a salary increase that would raise the standard of its own professional engineers? The strike dragged on until July 28 — through a general election and a change of Government. 67/ A contract was signed on August 10, to cover the period from July 29, 1966 to March 23, 1968.

4. The Terms of the Collective Agreement — The bargaining unit. Agreement on the limits of the bargaining unit was achieved with a minimum of difficulty, both by SPIQQ and the other professional unions. These groups were certified by the Lieutenant-Governor in Council as provided in the Civil Service Act. 68/ A letter of agreement between the parties, on the day the Contract was signed, in effect recognized the same criteria for management exclusions that had been negotiated by engineers at Hydro and the City.

The letter from the Minister of Labour to the President of SPIQQ provided that, by analogy with Article 1(m) of the Labour Code, any engineer employed as a "manager, superintendent, foreman, or representative of the Government in its relations with professional employees" would be excluded from the bargaining unit. The letter explained, furthermore, that the term "foreman", in this context, would apply to any engineer whose responsibilities require him to make recommendations on promotion, job change, salary, or disciplinary measures affecting any professional, whether or not he is an engineer. Engineers employed in an advisory or confidential relationship with "management" were also in the excluded category. 69/ In the event of a new bargaining unit being created during the life of the agreement, any disputes over excluded positions were to be submitted to Judge Alan B. Gold for binding arbitration.

Salary and Professional Clauses. With a slowdown in government activity during the election campaign and the availability of outsiders for urgent tasks, the strike had, in effect, "fizzled out". Nevertheless, some interesting gains may be noted.

The engineers' contract, like those of the other Civil Service professionals, provided for sickness and maternity leave, statutory holidays, vacations with pay, overtime pay, car and travel allowance, grievance procedure, Rand formula (if 70% of employees in the bargaining unit requested it), etc. According to a union estimate, average salary increases for the Civil Service engineers were \$2,700 for the contract period, compared with \$3,000 at Montreal and \$2,100 at Hydro. 70/ More important, perhaps, is the fact that the salary increases were tied to a new system of classification of professionals in the Civil Service. 71/ During negotiations, the engineers had been demanding a career plan that would allow qualified technical "cadres" a parallel path of advancement with administrative personnel. Under the Collective Agreement, a Career Plan, with this objective, was integrated with the new classification system.

According to the new classification system, all employees covered by the agreements are placed in three classes:

Class III containing 10 levels (for engineers, the first level salary will be \$6,100 p.a. Each succeeding level will receive \$250 more).

Class II containing 10 levels (for engineers, \$8,000 p.a. at the first level, and \$400 or \$500 more for each succeeding level).

Class I containing 7 levels (for engineers, \$11,000 p.a. at the first level, and \$500 more for each succeeding level).

Normally an employee passes from one level to the next (within the same Class) every year but he may progress more rapidly if his superiors recommend it. In other words, progression from one level to the next is automatic (a statutory increase) but an accelerated increase, that is, two levels at a time, is only on recommendation (merit increase). Progression between the classes, on the other hand, cannot take place without examinations.



The professional must have attained a certain level in Class III and have the approval of his supervisors to take the exams for Class II, a category reserved for individuals wanting to make a career in the Public Service. Promotion into Class I is the most difficult, being reserved for professionals with at least twelve years of practice who have, in the opinion of their seniors, demonstrated superior ability and performance. Class I has room for two kinds of professionals: the specialist in a technical field and the specialist in an administrative field. Thus to the engineers it is, in theory at least, the embodiment of the "Parallel Path" system. It should be noted that a Government engineer (or other professional) does not automatically get into a higher class by passing the examination. There is a numerical limit for each of the higher classes and it is particularly stringent for Class I. To get a double increase is much simpler, requiring only that the supervisor's recommendation be accepted.

The Career Plan has not been in operation long enough for observers to pass judgment on its success. The Civil Service engineers are pleased, however, that it provides some machinery for the reward of individual merit, whether by advancement to a higher class or by an accelerated progression through the salary levels.

Other professional clauses in SPICQ's contract with the Government are, in a sense, related to the Career Plan. Like the Career Plan, moreover, they are not confined to the engineering group. Article 7.01, for example, provides that each professional employee must work exclusively for the Government and that, in return, the employer will make every possible effort to assure the employee of work appropriate to his professional competence.

Article 8 provides that the Syndicate will be given advance notice of technological change affecting the jobs of its members. It assures against loss of employment or income for any full time employee whose job may change or disappear through administrative or technological change. In return it requires employees to take whatever training may be necessary to adapt to the new conditions. Any further professional education or retraining required by technological innovations will be supplied at the expense of the Government.

Article 9 recognizes the general importance of continuing professional education and provides for paid participation in Government retraining programs. This problem of professional education and retraining will be a major concern of the Professional relations committee. This committee, composed of Government and employee representatives 72/, "will serve as a means of communication between the parties and study professional problems." (Article 10.) The committee is to meet monthly and make "recommendations" to the Government.

Like their confrères in SPIVM and SPIHQ, the engineers (and other professional employees) at the Provincial Government received a basic guarantee of their professional integrity in a clause devoted to signing rights. Article 7.03 of the engineers' contract provides that:

Any technical document prepared by an employee or under his direction must be signed by him. No employee may be required to modify a technical document that he has already signed and that he considers professionally correct. (translation mine)

This is followed by Article 7.04 which continues:

No disciplinary measure may be imposed on an employee who has refused to sign a technical document which he cannot approve for reasons of professional conscience.

Quebec engineers are particularly proud of this clause and the similar ones at Hydro and the City. They point out that they have actually acted in the public interest by protecting their signing rights. Ralph Nader would not have had to write his book, they note, if engineers working for American car manufacturers had organized and negotiated a similar agreement.



### REFERENCES

- 1/ PC 1003, article 2(f) stated that "an employee means a person employed to do skilled or unskilled manual work, office work or technical work, but does not include...a person engaged in a confidential capacity or having authority to hire or fire other employees."
- 2/ FICQ, "Rapport du Président: Première Partie," Cadres, 6 février 1966, p. 3.
- 3/ This is comparable to the Employee Members Committee of the Association of Professional Engineers of Ontario, discussed in the section on Ontario, p. 214.
- 4/ Two were, in fact, elected—Pierre Demers and Paul-Emile Drouin. However, shortly afterward, Mr. Demers became a consultant and Mr. Drouin was promoted to a managerial position.
- 5/ See pp. 142 and 143.
- 6/ Minutes of a meeting of the Salaried Engineers Committee of the CIQ (January 29, 1963) show that the late Guy Favreau, counsel to the CIQ, also gave a legal opinion that Article 3.5 would be ultra vires if extended to apply to professional syndicates. The CIQ, however, did not bring this advice to the attention of its membership at the time.
- 7/ All engineering and other professional syndicates of the CNTU would eventually be affiliated with the FICQ. See Appendix A-2 for list of FICQ affiliates.
- 8/ Congrès de la FICQ, 1966. "Rapport du Président." Reported in Cadres, April 1966, pp. 4 and 5.
- 9/ Report of the 37th Session of "Semaines Sociales", held in 1960 and devoted to a discussion of professional unionism. Other speakers of note were Jean Marchand, with whose views we have already dealt, and R. P. Jacques Cousineau, S. J. who observed that salaried professionals, lacking the benefit of unionization, were not playing the role they should in the social and economic life of the Province. (La Presse, samedi, le 24 septembre 1960, p. 35).
- 10/ Jean-Réal Cardin, "Une montée inéluctable en économie moderne: le syndicalisme de cadres," Cadres, Vol. 1 No. 6, novembre 1964, p. 7. Translated by Roger Chartier in "Supervisory and Managerial Unionism under Quebec Labour Legislation," The Canadian Personnel and Industrial Relations Journal, Vol. 13, No. 5 (November 1966), p. 37.

- 11/ The senior officials of the CIQ belong, by and large, on the management side of the bargaining table. Proponents of professional unionism note that this fact alone precludes any consideration of the CIQ as bargaining agent for its employee members.
- 12/ The Committee consisted of 6 executive engineers, 4 supervisory engineers, and 2 non-supervisory engineers.
- 13/ Letter from Mr. Adrien Lemelin to Mr. Pierre Demers, President of CIQ, June 11, 1963.
- 14/ Brief submitted by the Montreal Board of Trade, The Canadian Chemical Producers' Association, The Canadian Textile Institute, and The Canadian Manufacturers Association to the Private Bills Committee of the Legislature concerning amendments to the Engineers Act (Bill 68), April 30, 1964.
- 15/ See section on The Private Sector, pp. 161 to 169 for examples of employer resistance to unionization and collective bargaining.
- 16/ Engineers Act 5 (j) states:  
Nothing in this Act shall ... prevent an employee from doing for his employer anything contemplated in paragraph (b) of section 3, under the direction of an engineer who affixes his signature and seal in the cases contemplated by section 29.
- The sections referred to in 5 (j) provide as follows:
- Sec. 3 The practice of the engineering profession consists in performing for another any of the following acts when they relate to the works mentioned in the previous section (defining the field of practice of the professional engineer):
- a) the giving of consultations and opinions;
  - b) the making of measurements, of layouts, the preparation of reports, computations, designs, drawings, plans, specifications;
  - c) the inspection or supervision of the works.
- Sec. 29(1) All plans and specifications for works contemplated in Section 2 (the field of engineering practice) must be signed and sealed by an engineer who is a member of the Corporation or who is a holder of a temporary license, except plans and specifications prepared outside the province and relating to machines and apparatus contemplated by paragraph (c) of the same section for use for purposes of industrial manufacture.
- 17/ Engineers Act 1 (d): "engineer" means a member of the Corporation.
- 18/ See pp. 166 and 167.

- 19/ Letter from Mr. P.M. Laing, Q.C. of Smith, Davis, Anglin, Laing, Weldon and Courtois, to M. Claude Marchand, CIQ legal adviser, Montreal, March 28, 1967. Cited in Roger Turgeon, "Un Conseiller de la CIQ nous écrit", Cadres (May-June 1967), p.4.
- 20/ See pp. 140 and 141.
- 21/ Some informants suggest that this has not helped interpersonal relationships in the Company although it may have assured competent supervision of technical performance. It has been noted that engineering training, by its emphasis on technical skills, and its lack of attention to human relations, creates a tendency to administer by formula, often with unhappy results in interpersonal relations. This problem is frequently cited by salaried engineers and is not confined to Northern Electric.
- 22/ See Article 20 of the Labour Code which provides that professional employees must bargain in separate units.
- 23/ FEE is made up of members from Bell Telephone, CBC, CNR, Northern Electric, and the consulting firm of Asselin, Benoit, Boucher and Ducharme. Engineers from Marconi, RCA, the Seaway Authority and Department of Transport (Federal Branch in Montreal) have attended meetings but are not members.
- 24/ In spite of this, some FEE members (including CNEEA) gave financial and moral support to striking engineers at Hydro-Québec. In the May 1966 issue of Cadres (p. 7), it is reported that:

Engineers working for the Federal government in the Province of Quebec (Department of Transport) have pledged their moral and financial support to the Hydro-Quebec engineers presently on strike. These Federal government engineers are currently contributing \$10 per month each to the Professional Defence Fund.

The same issue of Cadres quotes a notice from the CNEEA Newsletter (April 1966):

As you know, the Hydro engineers are on strike on questions of jurisdiction, salary and working conditions. To provide substance to your moral support you are urged to send a contribution to:

FEDERATION DES INGENIEURS ET CADRES DU QUEBEC,  
1001 St. Denis,  
Montreal 18, P.Q.

With your cheque, enclose a note mentioning that it is for the STRIKE FUND.

(signed) CNEEA EXECUTIVE



The Cadres report continues:

Following this appeal the Northern Electric engineers voted at their general meeting on May 19 to give \$3,010 to the Hydro-Quebec engineers' strike fund. On May 20 Mr. Paul Ronald, chairman of the CNEEA, presented a cheque for this amount to Mr. Jean-Guy Rodrigue, president of the Hydro engineers' Syndicate. Mr. Ronald then addressed the general meeting of Hydro engineers assuring them of the support of Northern Electric engineers in the present conflict.

- 25/ RCA Victor Employees Association, Collective Agreement between the Association and RCA, Montreal, May 16, 1966. (Art. 1.01.)
- 26/ The Association has pointed out that self-interest would ultimately force the CIQ engineers to bargain collectively if the other "engineering workers" were doing it. Otherwise their confrères with inferior training, as well as non-registered foreign engineers, could negotiate superior salaries and perhaps, in some cases, superior status to their own.
- 27/ Proposed changes in the Engineers Act and the Labour Relations Act discussed on pp. 148 and 152-154.
- 28/ See p. 147.
- 29/ Incorporation under these Acts, however, did not compel an employer to recognize the union or bargain collectively, as would certification under labour legislation.
- 30/ See reference 6/, p. 200.
- 31/ Brief submitted June 1963. See p. 153.
- 32/ The ensuing collection of articles was so interesting to some English speaking engineers at Northern Electric that they translated and summarized them for publication in their own journal.
- 33/ See pp. 148 and 149.
- 34/ The success of SPIVM in enrolling this high proportion of eligible engineers has been attributed by some observers to the active union participation and organizing efforts of a number of senior engineers in the City Service. Gilles Lacoste, Yvan Brunet and Hildège Dupuis are among the names most frequently mentioned. Moreover, because of the relatively high level at which the management line has been drawn for City engineers (see p. 175), these senior men have managed to remain in the bargaining unit, assuring the syndicate of continuing leadership.

- 35/ A number of precedents could be cited in support of their position. For example, there were already in existence about thirty closed corporations of doctors, lawyers, and other professionals incorporated under the Professional Syndicates Act and not subject to labour legislation.
- 36/ Their argument ran as follows: Because these bargaining units were restricted to the lowest level of engineers, the number eligible was too limited for effective countervailing power. In addition, with the management line drawn so low, companies could easily transfer or promote the union activists out of the bargaining unit, weakening the union still further.
- 37/ See sample Organization Chart, Appendix A-3.
- 38/ The exclusions are listed in Appendix A, p. 38, of the Collective Agreement between SPIVM and the City of Montreal (May 26, 1965).
- 39/ There has been no particular problem of definition as in the private companies discussed above. Article 2.03 of the Collective Agreement states that the contract applies to "all engineers employed as such by order of the Executive Committee" (underlining mine). In practice, the bargaining unit is limited to graduate engineers, but membership in the CIQ is not a requirement.
- 40/ A senior official of Hydro-Québec deplored the use of the new pay scale at the City as a pace-setter for other employee engineers. He noted, in an interview, that salary increases in certain engineering classifications had not cost the City a cent as it had few or no employees in those particular classifications. Hydro, on the other hand, employs a large number in those classifications and found itself "stuck" with demands for the City's salary scale.
- 41/ Cadres, June 1966, p. 7. See Collective Agreement, Appendix B (pp. 39-41) for salary scale (by function and seniority) in the seven classifications of City engineers.
- 42/ For example, professional clauses listed on pp. 177 and 178.
- 43/ Syndicat des agronomes de la Ville de Montréal, Syndicat des architectes de la Ville de Montréal, Syndicat des architectes-paysagistes de la Ville de Montréal, Association professionnelle des arpenteurs-géomètres de la Ville de Montréal, Association des chimistes professionnels de la Ville de Montréal, Syndicat des comptables agréés de la Ville de Montréal, Syndicat des dentistes de la Ville de Montréal, Syndicat des médecins-vétérinaires de la Ville de Montréal, Syndicat des professionnels de la Ville de Montréal.
- 44/ "City of Montreal Engineers Seek Professional Rights, A Career Plan, Parallel Path Advancement and Right to Continuing Education," Cadres (May-June 1967) p. 9.

- 45/ It will be remembered that the private power companies in Quebec were nationalized in 1963. Engineers who had been working for these companies automatically became employees of Hydro.
- 46/ See p. 146.
- 47/ See p. 153.
- 48/ See p. 171.
- 49/ Engineers with authority to influence the careers of other engineers (i.e., authority over hiring, firing and promotion) were ineligible for Syndicate membership.
- 50/ A recent study of engineering unionism in Quebec found that many Syndicate members still express ambivalent attitudes toward the CNTU. While some have reservations about their affiliation with a labour "centrale", however, they all seem to accept it as a matter of expediency. The backing of the CNTU, they agree, has given the Syndicate a strength that it would not have alone. See André Saint-Amand, "Le Mouvement syndical chez les ingénieurs," (Thèse de Maîtrise, Département de Sociologie, Université de Montréal, 1965).
- 51/ The Government appointed Commission that runs Hydro delegates its authority to the General Director, an engineer. Under him at Head Office are the heads of: accounting, personnel, engineering, production and transport, distribution and sales, purchasing. These are all Directors General. They are in the first level. Each of them has four or five Directors reporting to him who constitute the second level. The third level at Head Office comprises the "Chefs de Service", of whom there are from five to seven under each Director.
- The first level also includes the eight Regional Directors, each of whom has a number of "Chefs de Service" reporting to him. In the Regions, the "Chefs de Service" are at the second level. The Regions are subdivided into districts; the heads of these districts are third level.
- On construction sites there are two levels of authority, the manager of the project being at the first level, his assistants at the second.
- 52/ Entente Conclue entre l'Hydro-Québec (et ses filiales) et Le Syndicat Professionnel des Ingénieurs de l'Hydro-Québec pour mettre fin à l'arrêt de travail des ingénieurs en "séance d'étude", 14 juin 1965. (Art. 2)
- 53/ The new regional structure was considerably flatter than formerly: the first three levels (excluded from the bargaining unit) encompassed a larger number of people. Under the new plan, each Regional Director (first level) would have more "chefs de service" (second level) reporting to him. On the construction sites, three new positions of "chef de service" (second level) were created. The Syndicate claims that the occupants of these positions were originally in the bargaining unit and that they are still doing the same work.



- 54/ Convention Collective de Travail entre La Commission Hydro-électrique de Québec et le Syndicat Professionnel des Ingénieurs de l'Hydro-Québec (CSN). 25 juillet 1966 — 31 décembre 1967, Annexe "A", pp. 32-33.
- 55/ See Appendix A-2 for list of FICQ affiliates and membership statistics as of April 5, 1967.
- 56/ Article 1.01 of the Agreement defines an employee as: an engineer employed in a position other than those specifically excluded as management in Appendix A.
- 57/ Arbitration award, January 1968,
- Cardin based his award on the following considerations:
- a) The definition of "employee" in the collective agreement (Article 1.01) contains no mention of membership in the CIQ.
  - b) SPIHQ was recognized in the original and present agreement as the sole bargaining agent for engineers employed by Hydro with the specific exception of those in management levels 1,2,3. There was no qualification of the term "engineer".
  - c) Nothing in the constitution of SPIHQ limits its membership to members of the CIQ.
  - d) Hydro employs the persons in the disputed group for regular engineering work and included some of them on its original list of unionizable employees.
- 58/ A new contract was signed just as this report was being completed. This time there is no ambiguity in the definition of "employee". Article 1.01 specifically confines the jurisdiction of the syndicate to engineers "au sens de la loi", thus eliminating all non-registered engineers from the bargaining unit.
- 59/ This dispute illustrates one of the major problems faced by professional workers and their employers when they adopt a collective bargaining relationship: to the professional union, a broadly based bargaining unit is a matter of life and death; to the employer, it is a threat to the whole administrative structure of decision making and authority on which the efficient operation of a business depends.
- 60/ Averages reported in Cadres, September-October 1966, p. 4. For detailed salary scale, see Convention Collective, Annexe B, p. 34.
- 61/ Civil Service Act (1965), Section XV: Collective Bargaining.
- 62/ The three engineering syndicates, SPIVM, SPIHQ, and SPIQ, formed the federation in 1964. This federation, affiliated with the CNTU, was expanded in 1966 to include other professional and "cadres" groups. It is now known as the Fédération des Ingénieurs et Cadres du Québec (FICQ).

- 63/ Quebec Civil Service Act (1965), Articles 71 and 72.
- 64/ Le Syndicat professionnel des ingénieurs forestiers du Gouvernement du Québec, le Syndicat professionnel des agronomes du Gouvernement du Québec, le Syndicat professionnel des arpenteurs-géomètres du Gouvernement du Québec, le Syndicat professionnel des comptables agréés du Gouvernement du Québec, le Syndicat interprofessionnel de la fonction publique du Québec.
- 65/ These groups, with the exception of the Chartered Accountants, have since merged into one multi-professional union, le Syndicat des Professionnels du Gouvernement du Québec. Negotiations for a new agreement are now in progress.
- 66/ This is the argument all the engineering syndicates, SPIVM and SPIHQ as well as SPIGQ, have used to justify their militancy against French-run public enterprises, and reconcile it with their strong spirit of French Canadian nationalism. They explain (or rationalize) this militancy as a way to improve these public enterprises in the long-term interest of the State.
- 67/ Liberal government of Jean Lesage defeated by Daniel Johnson's Union Nationale, June 5, 1966.
- 68/ Under Section 71 of the Quebec Civil Service Act, the Lieutenant-Governor in Council may grant certification to professional groups "upon the recommendation of a joint committee constituted for such purpose by the Lieutenant-Governor in Council and one-half of the members of which are representatives of the group concerned." This section continues:  
"Such certification shall have the same effect as certification by The Quebec Labour Relations Board.  
"Accordingly such Board shall decide all conflicts respecting the effective exclusion or inclusion of an employee in any of such groups and may cancel the certification and grant another upon the conditions prescribed by the Labour Code."
- 69/ For a list of these excluded positions, see Convention Collective de Travail entre le Gouvernement de la Province de Québec et le Syndicat professionnel des Ingénieurs du Gouvernement du Québec, Annexe "A".
- 70/ Cadres, September-October 1966, p. 12.
- 71/ Part of an overall program of reclassification of Civil Service positions.
- 72/ Note that this is a committee to serve all professional Civil Servants, not the engineers alone.

## PART IV

### THE ONTARIO EXPERIENCE

The Ontario experience has, in a sense, been the reverse of that in Quebec; for although Ontario engineers took greater advantage of negotiating rights under PC 1003 than did their confrères in Québec, their present collective bargaining position is weaker, both in law and in practice.

#### Collective Bargaining under Legislation: 1943-1948

The first collective bargaining legislation in Ontario, the Collective Bargaining Act (1943), had no provision excluding professional employees. Indeed, sections of the Act implicitly made professionals subject to it by stating that no compulsory membership clause in a collective agreement was to apply to a member of a "learned or scientific profession" if he did not wish to be included. While the professions were not further defined in the Act, it is clear that they included the engineers. 1/

The Labour Relations Board Act which was enacted by the Ontario legislature the following year again did not exclude professional employees. Nor did PC 1003 which subsequently (1944) superceded the provincial legislation. As no class of employee was excluded on a professional basis from the provisions of PC 1003 engineers naturally fell within its scope. Thus they could, if they wished, apply for certification of their own bargaining units and negotiate their own agreements. Should they fail to act on their own behalf, however, it appeared that they could be included, without their consent, in a trade union certification representing the majority of employees at their place of work.

The Association of Professional Engineers of Ontario (APEO), together with other engineering organizations, raised strenuous objections to PC 1003



but their representations only achieved a six months' stay of proceedings. During this time it became apparent that, if Ontario engineers were to be forced to bargain collectively, they would at least prefer to do it for themselves.

Because APEO's membership included both employers and employees, the professional Association itself could not act as bargaining agent. An autonomous body, the Federation of Employee Professional Engineers and Assistants, was set up for this purpose and APEO formally endorsed it as bargaining agent for its employee members. Meeting in Toronto on October 27 and 28, 1944, the Council of the APEO passed the following resolution:

Whereas the Federation of Employee Professional Engineers and Assistants has been formed to provide for collective bargaining by engineers for engineers, and limits its membership primarily to those who are registered, licensed, or recorded with this Association, the Council favours the Association giving all assistance legally possible to the Federation.

Although the Federation was primarily for engineers, other professionals with whom they worked quite closely (e.g., scientists) also belonged. Units of Engineers and Assistants formed under the auspices of the Federation were certified in the following public utilities and industrial establishments: the Hydro-Electric Power Commission of Ontario, the Toronto Hydro-Electric System, the Toronto Transit Commission, Canadian General Electric, Algoma Steel, Canadian Bridge, and A.V. Roe. Eight hundred professional engineers were included in these units. (Another unit was formed at Canadian Westinghouse just prior to new legislation in 1948 but was disbanded almost immediately).

Special mention may be made of two of the units for which the Federation obtained certification:

The largest and most influential of these was at the Hydro-Electric Power Commission of Ontario. Organization of this unit began in 1944 but

it took some time to recruit the number required for certification. By 1947 a majority of the engineers and scientists had been signed up and the unit was officially certified. 2/ The first collective agreement was signed in 1948. Since then negotiations have been repeated continuously except for two years during which the Commission refused to negotiate. 3/

The Hydro unit led the way and has continued to be the guiding light for Ontario engineers who wish to bargain collectively. It has been influential both because of its militancy and because of its size. In the forties, Hydro employed between 500 and 700 engineers. Now it employs 1000.

While the story of collective action by engineers in Ontario is bound up in the experience at Ontario Hydro, other Federation units, less in the limelight, have negotiated collectively for years. Take for example the engineering unit of the Toronto Hydro-Electric System (THES), one-seventh the size of the group at Ontario Hydro. The THES unit was formed in 1945, certified in 1946, signed its first collective agreement in 1947, and has had twenty continuous years of working under a collective agreement.

The Federation exercised a limited degree of centralized control over its affiliated units. While contract proposals were formulated within the individual units, a Board of the Federation, elected by all the units, helped in the negotiations and advised on the contracts. Although it was technically required to approve all contracts before they were signed, however, this Board never exercised its power of veto.

While the structure of the Federation bears at least a superficial resemblance to a contemporary federation of engineers in Quebec (FICQ), the differences in ideology and in methods are obvious. Ontario engineers have

consistently rejected the union label. The "units" of the Federation were never called "unions" and there was no thought of affiliation with a trade union central. Collective action was justified as a means of assuring salaries commensurate with professional status but the strike was ruled out as a bargaining weapon. 4/

Exclusion of Professionals from  
Labour Legislation: 1948

The growth of compulsory collective bargaining for professional employees was set back in 1948. Reflecting the pressure from professional associations, new federal legislation in that year (Industrial Relations and Disputes Investigation Act - IRDIA) excluded from its provisions "members of the medical, dental, architectural, engineering and legal professions qualified to practise under the laws of the province and employed in that capacity". Ontario followed suit in the same year and these professions have been excluded ever since. 5/

Thus from 1948 on, there could be no legal certification of professional engineering units in Ontario. Established units lost the protection of legal certification and could only continue on the basis of "voluntary" recognition by their employers. The Federation was bitterly disappointed by the new professional exclusions. APEO was obviously relieved as it had always deplored the inclusion of its members in labour relations legislation.

The Fight for Bargaining Rights, 1948-1964

1948-1952: "Voluntary" negotiation and the decline of the Federation —  
The new legislation did not immediately end established bargaining relationships but it marked the beginning of the end of the Federation. While all



the certified units continued to negotiate and sign agreements until 1952, their dependence on voluntary recognition naturally shifted the balance of power to the advantage of the employers. The Federation could not mount a strong offensive at this time as it represented only a small minority of Ontario engineers. Furthermore it no longer had the support of the APEO. The professional Association, after the change in the law, began determined efforts to absorb the Federation. This is evident in the following policy statement, issued in October 1948:

The Association greatly appreciates the work done in the past by the Federation on behalf of employee engineers. It recognizes that the status of this group has been altered by recent legislation (underlining mine), but intends to continue active support of the Federation's primary objectives, i.e., adequate salaries and professional status. The Association will, in particular, endeavour to maintain its published schedule of salaries... The Federation will be asked to appoint a Liaison Committee to co-operate with the committee of the Association. 6/

APEO apparently hoped to absorb the Federation by means of this Liaison Committee but the Federation did not give up without a struggle. A new executive elected in 1951 had strong representation from the Ontario Hydro Unit and this group was firmly opposed to merging with APEO.

Early Fifties: Problems of the Federation increase — The Federation's losses exceeded its gains in the early fifties. The pressure from APEO was reinforced by a growing opposition from the employers. By 1952 a number of companies, complaining of excessive demands, had withdrawn their recognition of Federation units. While a few new units were organized between 1952 and 1954, these were small and did not compensate for the losses. Apart from the problems involved in trying to negotiate with Canadian companies like Hydro, moreover, the Federation faced the added complication of having to deal with subsidiaries of American corporations, e.g., General Electric.

The management of these American subsidiaries made it clear that engineers in the United States could always do more of their engineering work if Canadian engineers pressed too hard for collective bargaining rights! 7/

APEO made a number of moves to absorb the Federation in the early fifties. In 1951, in fact, amalgamation seemed a definite possibility. Discussions in the Liaison Committee had resulted in the establishment of an APEO standing committee for employee engineers. The Association interpreted this to mean the handing over by the Federation of responsibility for the welfare of its members and acceptance of this responsibility by the Association. APEO incorporated a "Professional Status Committee" into its statutes in 1953. One of its sub-committees replaced the Liaison Committee and kept in contact with the Federation, encouraging the latter to disband.

In spite of the pressure by APEO and the weakened position of the Federation, fundamental disagreement over collective bargaining prevented a merger between the two in the first half of the fifties. The Association maintained a firm stand against compulsory collective bargaining (i.e., under legislation), the Federation maintained its hope of regaining it. Considering its minority position (1125 members in 1953, of whom 730 belonged to the Ontario Hydro unit) it is amazing that the Federation held out as long as it did. When a compromise was finally reached, with the formation of an Employee Members Committee of APEO, it was predicated on a

'third way' approach, that of developing a sound professional relationship between the employee engineer and his employers, being midway between the two extremes of abandoning the professional engineer to working out his problems for himself on the one hand and formal collective bargaining procedures on the other. 8/

Late Fifties: End of the Federation and Establishment of the Employee

Members Committee — The end of the Federation was hastened with the formation in 1954 of a "Young Engineers" sub-committee of the Professional Status Committee. This group had considerable support among the Federation units. After lengthy consultations with the Ontario Hydro unit, the key group to be convinced, the Young Engineers recommended that a "Company Groups Committee" be formed by APEO to sponsor and aid associations of employee engineers. A newly elected Federation executive encouraged its members to support this recommendation. While this did mean abandoning their struggle for legal bargaining rights, they felt that it would at least assure some form of recognition for the Federation units. APEO also reacted favourably to the establishment of a Company Groups Committee, but for a different reason. It was hoped that this would forestall further attempts to secure collective bargaining rights under law.

The Federation finally voted, by a 77% majority, to dissolve itself if APEO would set up a permanent standing committee, the new "Company Groups" idea. The Professional Engineers Act was amended to make provision for such an organization and the Federation disbanded late in 1956. Section 34(2) of Regulation 496 authorizes the Council to appoint an Employee Members Committee (EMC) each year; each company group (formerly units of the Federation) was to have a representative. The duties of the EMC are described in Section 41: EMC was to help groups of engineers in various enterprises establish and maintain communication with their employers, keep Council informed, and suggest ways in which Council could help. However, it had no authority to compel APEO to accept any policy.



The EMC met for the first time in January 1957. Its first major challenge was to come in a matter of months.

Impasse at Ontario Hydro: Wider Ramifications — The Ontario Hydro unit, which was now renamed The Society of Ontario Hydro Professional Engineers and Associates (SOHPEA) was soon to test the new relationship between APEO and its employee members. In May 1957, SOHPEA opened negotiations for a new contract. APEO assisted with technical information and professional advice but the talks reached an impasse by August. The Society then conducted a referendum on the last salary offer by the Commission. When the membership responded with an overwhelming negative vote, SOHPEA asked APEO to mediate the dispute. The Hydro management would not agree to mediation.

Suggesting that "more was involved than the mere question of salaries and that it might be desirable to re-examine the Society's real problems to determine the real roots" 9/, the Association proposed the formation of a joint APEO-SOHPEA committee to consider the problem. This committee met twice, November 25, 1957 and January 23, 1958. When it was learned at the second meeting that Hydro had also set up a committee to study the problem, SOHPEA and APEO representatives agreed to defer their own inquiry until the Hydro committee reported. A meeting was set for June 1958. Meanwhile SOHPEA promised to take no precipitate action without first consulting the Association and agreed to keep the latter informed of any relevant developments.

Eight days later, on January 31, 1958, Hydro served notice that it would cancel its bargaining agreement with the Society on April 1 following, at the same time advising that it proposed "to develop an atmosphere

conducive to the development of a more professional relationship between its professional engineer employees and management". 10/

1. The Demand for Legislation — At this point SOHPEA began to press for collective bargaining rights under law. In May 1958 it presented a brief to the Ontario Legislature's Select Committee on Labour Legislation, arguing for a change in The Labour Relations Act to bring professional engineers within its scope. The brief proposed that bargaining units be restricted to professional engineers. It specified moreover that engineers should not be included in or bargained for by a trade union which "admits to membership, or is chartered by, or is affiliated directly or indirectly, with an organization that admits to membership persons other than such professional engineers".

SOHPEA's brief came into the hands of the Association ten days before its presentation. When it discovered that the brief had been in preparation since October 1957, APEO felt that SOHPEA had deceived it. The Association hurriedly prepared its own brief to the Select Committee, insisting that it was not in the public interest, nor the wish of the majority of employee engineers, to have members of the profession included in labour legislation. It also made clear that any group of engineers wishing to make changes that affect the profession as a whole should first communicate its proposals to the Council of the Association. SOHPEA had bypassed the normal channels by communicating directly with a legislative committee. In sum, the Association's brief recommended that there be no change in the professional exclusions of The Labour Relations Act.

While the report of the Select Committee (July 10, 1958) recommended that the professional exclusions be retained in the Act, it suggested the

following qualifications:

It is the opinion of the Committee that provision should be made that in the event any of these professional associations by a majority vote subsequently decide they want to be included in The Labour Relations Act, they could do so.

That any person or persons excluded from the Act by this amendment may come under the provisions of the Act by withdrawing from membership in the association and that in this event, they should be in a separate bargaining unit, unless they particularly request otherwise.

One member of the Committee dissented, feeling that

any professional group in an employee category not exercising managerial functions and capable of being defined as a collective bargaining unit should have collective bargaining rights under the Act.

While some revisions were made to The Labour Relations Act following the Select Committee's report, these did not include any changes affecting professional engineers. SOHPEA had, after all, been alone in its demands for legislative amendments. Although some other groups of employee engineers undoubtedly sympathized, particularly those in the EMC, none of these openly endorsed the Society's brief.

2. SOHPEA's Attempts to Regain Recognition — Having failed in its first attempt to make collective bargaining a legal right for all Ontario engineers, SOHPEA turned its attention to restoring a bargaining relationship with its own employer. It now turned to APEO for help.

In March 1959, SOHPEA asked APEO to support a brief it was submitting to the Hydro Commission. This brief demanded the recognition of SOHPEA as bargaining agent for Hydro's employee engineers, negotiation of a written collective agreement, provision for conciliation and arbitration in case of deadlocked negotiations, provision for arbitration of individual grievances under the contract. The Association agreed to send a letter to the Commission



giving limited support to SOHPEA's brief. This letter included the following statements:

The Association of Professional Engineers has considered the Brief submitted by the Society of Ontario Hydro Professional Engineers, and commends it to your sympathetic consideration,

and,

The Association believes that unionization of professional engineers is not in the interest of the industry of this country nor that of the profession. It is also realized that in an organization employing in the neighbourhood of one thousand engineers, it is not administratively possible for each engineer to present his individual employment problems to management. It follows that some form of group approach must be established, and it is desirable that this be formalized by an agreement.

SOHPEA's brief, with the Association's covering letter, was mailed to all five Hydro commissioners. The Chairman replied that "although the Personnel Branch is charged with full responsibility in dealing with such matters, the Commission, in recognition of professional status would be prepared to meet the Executive of the Society for an exchange of views". 11/ This meeting was held on May 27, 1959, but it did not resolve the fundamental disagreement between the parties.

Both sides professed a desire for a "professional relationship". The Society, however, maintained that its membership could not earn recognition and respect as professionals unless they were first granted recognition and respect as employees, and that this, in turn, could not be achieved without a written contract with conciliation and arbitration clauses. The Commission, on the other hand, firmly rejected any suggestion of a written agreement; instead it advocated a less structured relationship "founded on principles that will allow its professional staff to rise above collective bargaining attitudes". 12/

3. Deteriorating Relationship between SOHPEA and APEO — Failure to achieve "voluntary" recognition, even with APEO's support of its brief, convinced the SOHPEA Executive to reopen the case for legalized collective representation for employee engineers. Having tried APEO's "third way" without success, it now felt entitled to Association support for changes in the law. On July 3, 1959, SOHPEA's president addressed a letter to the Council of the Association. In part he said:

We have tried the 'Third Way' and it has failed. This is not to condemn the method itself as a failure, but it obviously needs acceptance by both parties if it is to work.

In the light of what has taken place over the past two years, it has become quite apparent to us that nothing short of a legalized group relationship with the Commission will ensure respect, recognition and security for the professional engineers at Hydro. We have tried reason, logic and persuasion; but none of this has made an impression.

We feel, therefore, that there is now no alternative left for us but to re-open the case for legalized collective representation for professional engineers.

We realize that in the recent past the APEO has taken the position that collective bargaining is unprofessional. We do not wish to get into a dispute with our Association over this question, but we must stress that the Hydro engineers have now exhausted all other known possibilities. Therefore, in our opinion, the best alternative open to us is to press for collective bargaining rights for employee-professional engineers through government legislation. However, we should not like to do this without APEO endorsement and support.

The Association refused to support the Society's position. APEO's Council met on September 18, 1959, to consider these specific demands by SOHPEA:

- a) that the Association renounce its objections to professional engineers in Ontario coming under The Labour Relations Act.
- b) that it actively support efforts to get the present Act amended to remove the professional exclusions.
- c) that it present a satisfactory alternative to these proposals.

The Council unanimously rejected the first two demands, noting that

...it believes that bargaining in the compulsive atmosphere of formalized procedures as designed and carried out by trade unions under The Labour Relations Act is not in the best interest of the engineering profession. Council therefore resolves that it cannot remove its opposition to professional engineers coming under the Ontario Labour Relations Act.

As an alternative solution, Council resolved that APEO's president name a committee to meet with the Ontario Hydro Power Commission. All Association members were advised of this decision in a letter from the President. This letter concluded with the following paragraph, reiterating the established position of the Council:

It is the opinion of Council that the problems causing the unrest of engineers at Ontario Hydro would not be solved by gaining recognition for the group under labour legislation. It is not believed that the possibilities of other methods of approach have all been exhausted. To investigate these, Council has appointed a committee to meet with the Hydro Electric Power Commission of Ontario.

The committee met on September 29. The following day it sent a letter to all members of SOHPEA calling for co-operation with management by the Society and "patient understanding by its members of the difficulties of implementing Hydro management's plan to achieve a new professional relationship with its engineering staff". 13/

The Society felt that APEO's Council had aggravated its problems rather than solving them. In a circular letter to all members of the Association (January 6, 1960), it complained particularly of Council's "unsolicited approach to our employer, making a public issue of the differences which existed".

New Tactics in the Early Sixties: Establishment of CAPE and Proposal to Amend the Engineers Act — In January and February of 1960, SOHPEA made



another abortive attempt to have the law amended. This time it circulated a letter to members of the Legislature as well as to all "employee Professional Engineers", again stressing the need for professional engineers to come under the terms of the Ontario Labour Relations Act. On March 8, 1960, it addressed a "Submission on Bill 74, An Act to Amend the Ontario Labour Relations Act", to the Cabinet. In reply the Premier of the Province, Leslie Frost, suggested that the Society try to resolve the problem within the profession.

SOHPEA had already realized that it could not achieve its objective of legalized collective bargaining without the support of other groups of employee engineers. In a progress report on February 22, 1960, it justified its attempt to set up a new organization:

At the time this decision was made it was recognized that there were many problems facing employee-engineers today, that these problems were not being solved either by the profession or by the employers of engineers and that no solution was at hand that could be immediately implemented. The Society could not, by itself, affect conditions in the entire industry of Ontario. Since our proposals to affect these in our own company were not accepted, we had no choice but to consider ways of solving the greater overall problems.

Contacts were made with individual engineers with a view to obtaining a small but reliable group of supporters outside Hydro. This group had as its first objective the reform of APEO itself, viz., the democratization of election processes and the destruction of the "divine right of Council".

SOHPEA's February report points out:

The reformation would then permit the establishment of an organization within the APEO perhaps, but under the control of those whom it is intended to serve. Caution will be required if the new organization is to come under the APEO however.

A complete reformation is necessary if the blunder of dissolution of the Federation and the establishment of the Employee Members Committee is not to be repeated. The use of the APEO has some decided advantages. The available funds, staff and communication facilities would be invaluable in tackling the problem. However to gain these advantages it is obvious that those engineers interested in the problem must be in control of the APEO.

The objective of controlling the Association, through strong representation on the Council was, of course, never achieved, but the proponents of collective bargaining, led by SOHPEA, pursued their efforts with vigour.

SOHPEA now petitioned the Government to delay its amendments to the Professional Engineers Act until all elements of the profession had a chance to comment. It then presented its own objections to the Legal Bills Committee of APEO (March 9, 1960) although the Professional Engineers Act, had already passed second reading.

Meetings between the Executive Committees of APEO and SOHPEA failed to resolve their differences over the Bill. By the end of April, however, SOHPEA had succeeded in organizing various company groups of engineers (which had until then been associated informally) into a separate organization, the Committee for the Advancement of Professional Engineering (CAPE). On April 29, 1960 this group, headed by the president of SOHPEA, presented a brief to the Council, advocating a collective bargaining provision in the Engineers Act. Having finally realized how impossible it was for a relatively small group of engineers to get legal bargaining rights for their profession under The Labour Relations Act, the proponents of collective bargaining now saw the Engineers Act as an alternative vehicle through which to achieve their purpose. For although the engineers represented by CAPE wanted collective bargaining rights, they no more wanted trade unionism than did their opponents on the Council. Certification under

the Engineers Act, they felt, might indeed be the solution, and it would keep their problems "in the family".

But the proposal fell on deaf ears. By June, APEO had sent its reply to the brief. A letter addressed to CAPE's Secretary said, in part:

The APEO reiterates that it is not in the long term interest of its members to have compulsory collective bargaining with their employers. The Employee Members Committee have discussed this matter many times and have not made any recommendation to Council. 14/

While CAPE did not have sufficient representation on the Council to have its brief accepted 15/, the letter from APEO, with its reference to EMC, unwittingly played into its hands. CAPE, whose members also belonged to the Employee Members Committee, would now use the Committee to put forward its recommendations to Council.

Movement toward Collective Bargaining gains Momentum: the EMC in the Early Sixties — Considering the fact that EMC was now to be used as an instrument by the proponents of legalized collective bargaining, let us digress briefly to discuss the composition of this Committee and the collective bargaining position of its members.

When EMC was first established (1956) it represented the engineering units that had been certified under PC 1003. 16/ Although these units had lost their legal status in 1948, they had continued their bargaining relationships under "voluntary recognition". In time, however, the situation changed. By the early sixties, General Electric (Ontario) and Toronto Hydro were the only ones of the original certified units who were still carrying on a collective bargaining relationship although a number of new groups had begun to negotiate with their employers. SONPEA, as we have seen, lost its recognition in 1958 but its relationship with Ontario Hydro was soon to be restored.



While the groups represented on the EMC were, by definition, those who had opted for some form of collective negotiation with their employers, their philosophy of industrial relations (for professional employees) and their negotiating methods did not necessarily conform to the trade union concept of collective bargaining. Without the protection of certification, and having renounced the strike as a bargaining weapon, there was, in fact, a limit to the demands that could be made. The emphasis, by and large, was on monetary issues. The engineers were mainly concerned with assuring themselves of a salary scale commensurate with professional status and with keeping pace with the wage increases negotiated by unionized non-professionals. Few non-monetary items were "spelled out" in detail and spokesmen for the EMC units stressed the fact that their contracts were the result of "gentlemen's agreements".

The following company groups were represented on the EMC in the 1960's 17/

<u>Company</u>	<u>No. in Group</u>
Bell Telephone	140
C.G.E. (Guelph)	23
C.G.E. (Peterboro)	332
C.N. Telecommunications	25
C.S.A. Testing Laboratories	44
Hawker-Siddeley Ltd.	59
Ontario Water Resources Commission	100
Ontario Civil Service Professional Eng. Group	120
Society of Ontario Hydro Professional Engineers & Associates	825
Toronto Hydro-Electric System	<u>42</u>
Total	<u><u>1,710</u></u>

These groups were composed mainly of engineers although some other professionals were included. 18/ In many cases their employers actually favoured collective negotiations. When the number of engineering employees is large, they noted, it can be unduly time-consuming, indeed most impractical, to deal with them on an individual basis. 19/ In certain cases, moreover, the normal process of promotion had, by the 1960's, placed some of the original Federation members on the employer's side of the bargaining table. If this made them more understanding of the engineers' desire to bargain collectively, it also made them shrewd negotiators for management. D.H. Corker, Chairman of the Engineers' group at Toronto Hydro summarized the situation as follows:

This arrangement to a large degree, depends for its satisfactory arrangement on an enlightened management. Although they have not always been in agreement with the Group, they have always been willing to discuss problems with the executive and have made an honest effort to find common ground for agreement.

The fact that most of the management people with whom the Group has had to negotiate were active in the early formation of THES... Unit No. 1, has made it easier to gain access to discuss problems. However, it has also given them the ability to dissect and counteract group proposals. 20/

1960-1964: Pressure for Legislative Amendments  
Resumption of Bargaining at Ontario Hydro

1. EMC and SOHPEA demand Collective Bargaining Rights — On September 9, 1960, EMC adopted a detailed report on "Engineer Employer-Employee Problems". The following recommendation was made:

Legalized collective bargaining should be made available to those who desire it, but should not be forced on those who do not desire it. The APEO should study means of achieving this end while eliminating any possibility of unions gaining control of the profession. (Recommendation 6.8, "Group Negotiations")

At the next meeting of EMC (October 21, 1960) the Toronto Hydro Professional Engineers' Group Executive expressed the opinion that "this report represents the greatest achievement of the EMC to date". The report was forwarded to Council. It received a negative response, first in a critical letter addressed to the Chairman of the EMC (November 17, 1960), then in a formal report on the Association's position (February 10, 1961). Both documents were signed by A.L. Sentance, first Vice-President of APEO. As a result, recommendation 6.8 on Group Negotiations was never implemented.

Once again SOHPEA took the initiative. Soon after EMC's first recommendations on Group Negotiations were rejected by Council, SOHPEA presented its own brief to the Professional Status Committee of APEO (April 5, 1961). This brief was entitled "Collective Negotiations for Professional Engineers under the Law" and proposed that this be achieved either by amending the Ontario Labour Relations Act OR by adding a section to the Professional Engineers Act. Copies of the brief were widely circulated to EMC delegates and alternates, members of Council and APEO staff.

In a detailed reply to SOHPEA's brief (May 18, 1961), Council reiterated its opposition to any form of collective negotiations under law. It gave the following reasons:

- a) It can compel professional engineers to subordinate or indeed abrogate entirely their prime responsibilities to the public, to employer or client, and to other professionals.
- b) It can divide the profession, placing some members in a position of conflict of interest, leading to discord.
- c) It can, because of the confidential capacity of the engineer, weaken or restrict the free technical employment of professional persons.



- d) It can destroy the effectiveness of certain services now provided by the Association to its members.
- e) It can cause a complete reassessment of professional employment, with a major strengthening on the part of sub-professionals in the field.
- f) It can demean the profession in the eyes of its own members, their employers and the public.
- g) It can cause engineers to be associated with trade union philosophy, objectives and practices.
- h) It can, in fact, introduce each of the foregoing in the relationships of engineers with all of their associates, employers and the public at large.
- i) It can subvert self development and quality of service to the political or power aspirations of the few.
- j) It can lead to violation of public trust.
- k) It can lead to the use of strike weapon.
- l) It can lead to effective control of the profession by trade union organizations.
- m) It can lead to determination of employment conditions by third parties not suitably informed of, or interested in particular employment situations.

2. Resumption of Bargaining Relationship between Ontario Hydro and

SOHPEA — At the same time that the professional Association was repudiating SOHPEA's demands for legalized collective bargaining, the Society was at last re-establishing its own relationship with Ontario Hydro. Three basic documents were signed between 1961 and 1963 to define the nature of this relationship.

A Letter of Understanding signed jointly by the General Manager of Ontario Hydro and President of SOHPEA (September 29, 1961) recognized the Society as:

the representative body for all the professional engineers and scientists of Ontario Hydro from MP1 to MP6 inclusive who are members of the Society except those employed in a confidential capacity.

It established a Joint Society-Management Committee (JSMC) as the mechanism through which agreements would be negotiated and recorded. It recognized the need to perfect present grievance procedures, but reasserted the principle of compulsory arbitration as the final stage in rights disputes. While the Letter accepted past personnel policies as a guide to present working conditions, it added a significant statement of purpose:

It is the desire and intent of Management and the Society to co-operate in the early development of a system for settling any and all points of disagreement between them. It is mutually recognized that for optimum effectiveness such a system must in general ensure for Society members treatment comparable with that enjoyed by the members of certified bargaining agents recognized by the Commission. (Underlining mine)

The Letter ended the stalemate at Ontario Hydro. Two other basic documents were signed on February 4, 1963. It had taken this time to work out the details of the bargaining relationship. The Procedure for Arriving at Agreements reaffirmed the main points in the original Letter, recognition of SOHPEA as bargaining agent and of JSMC as the mechanism for negotiating and recording agreements. In addition it provided for bargaining "in good faith" and set out detailed procedures to be followed in case of disagreement. 21/ A document on Redress Procedure detailed a number of steps in the handling of grievances, with third party arbitration as the final recourse. 22/

While SOHPEA and Hydro did not negotiate a conventional collective agreement with a specific expiry date, the accomplishments under the new bargaining relationship have been considerable. Accords reached and signed in the JSMC in 1965 provided for the filling of vacancies, advanced education, overtime pay, leave for Society work. The parties agreed on a definition of "confidential employee", compiled a list of arbitrators,

set up sub-committees to exchange information, recognized limited rights of the Society to make suggestions on engineering problems. It was agreed to give preference in filling job vacancies to employee engineers whose own positions had become surplus.

In the matter of salaries, the following points may be noted. Hydro operates under a Wage and Salary Administration Plan introduced in 1957. An intensive review of this Plan, by a sub-committee of the JSMC, indicated such drastic revisions to be necessary that it was decided to extend the study to consider the adoption of a completely different plan. A variety of wage and salary administration systems are under consideration but a final decision has not yet been reached. In the meantime salary increases are negotiated under the old plan. So far the practice has been to relate periodic increases in the engineers' salary scale to the upper quartile of the Otis survey of wages in the community and to the trend data of the CCPE Survey. 23/

Recently SOHPEA has been concerned with the shrinking differential between the engineers and their non-professional confrères in Hydro's overall wage structure. A sub-committee of JSMC presented a report on the problem June 29, 1966. Recommendations to consider the establishment of a minimum differential and a "dual ladder" approach to advancement were referred to the Salary sub-committee for "further study". The following recommendations were accepted by JSMC:

Special attention should be given to well qualified employees with potential who experience unusually long job tenure, to stimulate career planning and to ensure that full consideration is given to them regarding promotion and advancement opportunities. This is particularly significant in the case of lower level engineers.

and



Ontario Hydro's present efforts could be extended to increase the level of responsibility of engineering jobs by delegating lower skill work content to clerks and technicians, where applicable. (Underlining mine)

### Further Pressure for Legal Bargaining Rights

1. Proposed Amendments to The Engineers Act — The re-establishment of "voluntary recognition" by Ontario Hydro did not divert SOHPEA from its long-term objective of achieving collective bargaining rights under law. Its members, with like-minded engineers in other companies continued the pressure for legislative amendments. Moreover, in spite of past rebuffs, they still tried to achieve this through the Professional Association.

On April 7, 1962, CAPE addressed a statement to APEO, again demanding "Negotiation Rights for Professional Engineers", while on November 9, 1962 EMC passed a resolution 9 to 2 supporting CAPE's program and advising the Legislative Committee (of APEO) of its position. The next month (December 14, 1962) EMC passed a motion 11 to 1 (all groups represented, all delegates voting after consultation with their respective groups) asking the Legislative Committee to consider recommending to the membership amendments to the Professional Engineers Act to:

- a) provide a group of engineers with the right to negotiate and sign agreements with its employer if a majority of the employee engineers voluntarily form an organization for this purpose.
- b) prohibit negotiating groups of engineers from affiliation with a trade union or with an organization which is affiliated with a trade union.
- c) provide that any unresolved differences remaining after due process of negotiation be decided by a board of arbitration.
- d) protect the free choice of an individual engineer to join or not to join a negotiating group.

The motion was put, and rejected, at a meeting of the Legislative Committee (February 19, 1963).

#### A New Approach: Separate Legislation

Having failed in so many attempts to amend either the Labour Relations Act or the Professional Engineers Act, proponents of legalized bargaining rights for Ontario engineers began to think in terms of separate legislation. On August 23, 1963, SOHPEA (whose membership included engineers and scientists) presented a submission for "New Legislation for the Professional Engineer and Scientist in Ontario" to the Premier of Ontario and the leaders of the Opposition. This was the first intimation of broadening horizons and a significant break with the past: SOHPEA's proposed new legislation was not restricted to the engineering group.

SOHPEA sponsored a public meeting on September 16, 1963 to discuss its proposal for special legislation. The three political parties were invited to participate. While the political spokesmen indicated sympathy for SOHPEA's proposal of a Professional Employees' Act, they made no specific commitments.

1964: Formation of the "Steering Committee" — Presentation of its first Brief — By 1964, SOHPEA's horizons took in all professionals. On April 3, 1964, it addressed a draft Brief to all major Professional Associations in Ontario on the "Need for a Professional Employees Act". The brief was sent to the Chairman and Executive members of all EMC groups with copies to the APEO Council and Staff. The Society proposed group discussions on the feasibility of its proposal.

An EMC Group Conference was held on June 20, 1964 with some Council representatives attending. The following motions were adopted:

1. That this meeting of Employee members Chairmen resolves that there is a serious economic and status problem of employee engineers, and that immediate action is required to find a solution.
2. That those at this meeting representing EMC groups:
  - (a) believe that it is not possible to ensure an effective means for conducting collective negotiations without legislation; and
  - (b) endorse the principle of establishing legislation to provide permissive collective negotiation rights for professional staffs.

The first motion was carried unanimously, the second was adopted 10 to 1 (Canadian General Electric of Peterborough dissenting 24/).

On July 9, 1964, the Steering Committee on Negotiation Rights for Professional Staffs was formed at a special EMC Group Conference. By November of the same year the general membership of seven EMC groups 25/ had endorsed a Brief on "Negotiation Rights for Professional Staffs". The Brief was mailed to all of Ontario's major Professional Associations and to Premier Robarts.

The Brief emphasized four major problems to justify the demand for a Professional Negotiations Act:

1. Economic security. This is threatened when a high degree of specialization ("trained incapacity") reduces mobility, freezing a professional in his present job.
2. Remuneration. The value system of the modern enterprise gives greater rewards to administrative than to professional functions ("Parallel path" advancement is a myth). Where professional staff are not organized to represent their economic interests, salary movements have not kept pace with those of organized labour, management, or self-employed professionals.



3. Communication between professional staff and management is hampered by the structure and size of modern enterprises. Communication would be facilitated in large multi-level organizations by some form of collective representation.
4. Maintenance of Quality Standards and Protection of Professional Ethics is difficult for the individual if it runs counter to the interests of a profit-oriented management. Group support must be available to ensure professional standards (in the public interest).

In addition to defining the problems, the Brief outlined the major points to be covered in collective bargaining legislation for professional staffs. These proposals are incorporated in the Draft Professional Negotiations Act which will be discussed in some detail below. First, however, let us consider the reactions to the original Steering Committee Brief.

1. Reactions to the Brief — This Brief did not change the view of the Professional Association. Although the Executive of APEO met with the Steering Committee on December 17, 1964, it remained adamant in its opposition to collective bargaining rights under law. But the Brief had some impact outside the Association. Premier Robarts acknowledged the problem it raised in a letter to the Chairman of the Steering Committee:

The reports I have before me suggest that there is indeed a justifiable basis for a thorough and impartial examination of the problem you raised in your brief. 26/

He even hinted at a review of the Labour Relations Act:

It may be necessary for the government to examine in some more formal way the question of actual need and the best means for individual professional persons to be able to combine to represent their interests to employers in a way which is not inconsistent with individual professional status and responsibility. This in time may require some review of the Labour Relations Act and other statutes. It is too serious a subject, however, to be considered without a thorough examination of the public interest as well as the interests of the many professional groups. 27/

Mr. Roberts observed that the Brief was addressed to professional associations rather than to the Government and he suggested that these other professional groups might have opinions to express on the matter. The Brief did, in fact, generate considerable interest outside the engineering profession. Four thousand copies were circulated. The Centre for Industrial Relations at the University of Toronto devoted its 1965 Conference to the subject of "Collective Bargaining and the Professional Employee". When the Steering Committee submitted its draft "Professional Negotiation Act" to the Government in April 1966, the list of sponsoring groups had increased considerably. While engineers predominated, they were no longer alone. The title page of the 1966 Brief lists the following groups: 28/

Association of Professional Administrative Staff, Toronto  
Board of Education.

Association of Engineers of the Bell Telephone Company of  
Canada, Ontario Branch.

Canadian National Telecommunications Professional Engineers' Group.

Canadian Standards Association Testing Laboratories,  
Professional Engineers' Group.

Committee for the Advancement of Professional Nurses.

Hawker-Siddeley Toronto Professional Engineers' Association.

Institute of Professional Librarians of Ontario.

Ontario Civil Service Professional Engineers' Group.

Ontario Council of Northern Electric Engineers & Associates,  
Bramalea Chapter.

Ontario Council of Northern Electric Engineers & Associates,  
Belleville Chapter.

Ontario Council of Northern Electric Engineers & Associates,  
London Chapter.

Ontario Water Resources Commission Professional Engineers' Group.

Professional Engineers Group, Canadian General Electric, Guelph.

Professional Engineers Group, Canadian General Electric,  
Peterborough.

Professional Engineers Group, Toronto Hydro-Electric System.

Professional and Senior Administrative Employees of the Civil  
Service Association of Ontario, Branch 141.

Society of Directors of Municipal Recreation of Ontario.

Society of Ontario Hydro Professional Engineers & Associates.

Draft Professional Negotiations Act, 1966

1. The Need for Special Legislation — The Steering Committee was convinced that existing labour legislation, even with modifications, would be inappropriate for professional employees. It expressed concern, for example, with the problem of management exclusions under the Labour Relations Act:

The definition of employee which is used by the certification boards is so restrictive that if it were applied to professional employee bargaining groups, their membership would be kept down to an unworkable minimum. 29/

Moreover, having repudiated trade union affiliation and the right to strike, which other groups of workers enjoy under labour legislation, the Steering Committee felt that a separate law would be more appropriate for professional workers. But it rejected the idea of separate negotiation legislation for each professional discipline. The following explanation was given:

The merging and overlapping of the functions of professional persons from various disciplines now occurs frequently within the larger industrial and service organizations. The proposed legislation provides for recognition of disciplines separately, or in combination, and leaves the way clear for co-ordination of related disciplines if the members thereof decide that such a step would improve the representation of their interests. To provide separate negotiation legislation for each professional discipline is unwarranted when it appears practical,



as we have demonstrated herein, to devise a single form suitable for all types of professional employees. The single form will reduce the work of administration and rapidly build up a body of experience upon which future revisions, if necessary, may be based. 30/

2. Eligibility for Membership in a Professional Staff Group — Under the draft Act, eligibility to join a professional staff group would not be restricted to members of a group holding a licence or practising in a profession for which a licensing body exists. The Act provides for a broad definition of "professional employee":

..."professional employee" means an employee engaged in the exercise of a predominantly intellectual skill in which he uses discretion and judgment and the result of which cannot necessarily be measured or standardized by units or time and who has been qualified by knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study in an institution of higher learning or a hospital, as distinguished from a general academic education or from an apprenticeship or training in the performance of routine mental, manual or physical processes,

and includes an employee who has completed such courses of instruction and is performing related work under the supervision of a professional employee to qualify himself to become a professional employee,

and does not include any person who would otherwise be a professional employee but who has final authority with respect to the conditions of employment of professional employees and who is in a confidential capacity with respect to the regulation of relations between professional employees or professional staff associations and employers. (Sec. 1 (1)(e).

This would allow employee status to professionals supervising other categories of workers (i.e., non-professionals) thus taking into account the particular nature of professional responsibilities and functions in a way that general labour relations legislation might not.

3. Recognition of a Professional Staff Group: Application of the Agreement — The proposed legislation would require an employer to

...recognize a professional staff association as the bargaining representative of those of its professional employees who have designated and authorized the professional staff association to bargain on their behalf for a professional staff agreement (Sec. 2(1)).

Such an association could represent one or more specified professions, and several of these might bargain as a council of professional associations, or it could include all the professions employed at any one location. Where two rival staff associations purport to represent employees who are members of the same profession or perform similar work, the employer

...shall be required to recognize only the professional staff association who represents the greater number of those professional employees in the same profession or who perform similar work. In the event that each professional staff association represents an equal number of professional employees in the same profession or who perform similar work, the professional staff association delivering the required notice first shall be entitled to be recognized. (Sec. 3(3)).

There is no requirement that a professional staff association represent a majority of eligible professional employees to be recognized. Moreover, a professional staff association, or a council of professional staff associations, negotiates only for those professional employees who have designated it as their negotiating agent and the collective agreement does not cover the remaining professional employees. Thus no professional can be included in a bargaining unit or subject to a collective agreement against his will. However, the draft Act contains a provision for voluntary adoption of an agreement by professional employees who were not party to the negotiations:

Every professional employee in the employ of the employer whether or not he was an employee or had designated and authorized the professional staff association to be his bargaining representative at the time of making a professional staff agreement may so designate and authorize the

professional staff association and by notice in writing to the employer, adopt the provisions of the professional employment agreement and he and the employer shall thereafter be bound to its provisions pursuant to subsection (1) of section 8 of this Act. (Sec. 10).

4. Supplementary Agreements to Provide for Individual Differences — To

meet the objection that collective agreements submerge individual differences and destroy personal initiative, the Act allows for supplementary agreements to the main contract. While

Each professional employee who has designated and authorized a professional staff association to be his bargaining representative and each professional staff association and each employee forming part of a council of professional staff associations or a council of employers is bound by and shall observe all of the provisions of any professional staff agreement made by such professional staff associations or council of employers.

Nothing in this Act shall prevent a professional employee and an employer from making a supplementary agreement affecting conditions of employment of the professional employee pertaining to matters not covered in the professional staff agreement made on his behalf or specifically reserved therein to be dealt with in an individual supplementary agreement. (Sec.8 (1) & (2).

5. Trade Union Affiliation and The Right to Strike — The proposed

legislation has no specific prohibition on trade union affiliation, although such a prohibition had been suggested in the Steering Committee's original brief (1964). 31/ Its sole reference to trade unions provides that

This Act shall not apply to any professional employees who are included in a bargaining unit for which a trade union has been certified as bargaining agent under the provisions of The Labour Relations Act, R.S.O. 1960 Ch.202 and amendments thereto, except during such times as a trade union may apply for certification pursuant to the provisions of sections 5 and 46 thereof. (Sec. 1(2)).

By implication, however, the Act rejects trade union affiliation. It allows no possibility of strike action and provides for binding arbitration if negotiations are unsuccessful.



6. Arbitration of Disputes — A novel formula for arbitration was designed to avoid irresponsible proposals by either party. The arbitrator must decide in favour of the entire package of proposals by one side or the other; he is given no discretion to propose a compromise solution of his own. Sec. 4(4) of the draft Act states:

The arbitration board shall hear and consider the submissions made by the parties and shall decide in favour of either the employer or professional staff association. All of the proposals of the successful party which have not been withdrawn prior to the conclusion of the hearing of the arbitration board together with all of the proposals agreed to shall constitute its award. The parties shall be bound by the award of the arbitration board.

7. Miscellaneous Clauses — Other clauses in the proposed legislation do not differ substantially from general labour legislation. There are sections dealing with procedures for recognition, negotiating in good faith, mediation of disputes, grievance procedure, freedom of association, length of agreement, etc. In the absence of a Labour Relations Board, a "professional employee disputes commissioner" would be appointed to administer and interpret the Act. While there is no provision in the Act for certification of a professional staff association, there is provision for the commissioner to disqualify an association on certain grounds.

8. Comparison with General Labour Legislation — Whereas many clauses in the draft Professional Negotiations Act are similar to those in general labour laws, it is the differences that are significant. These may now be summarized as follows:

- a) An employer must recognize a professional staff association as the negotiating representative of those professional employees who have designated and authorized it to negotiate

on their behalf. Majority representation is not a prerequisite for recognition as it is under all Canadian labour relations legislation.

- b) No professional employee may be forced to join a professional staff association or to be subject to the provisions of a collective agreement against his will. Under general labour legislation, on the other hand, a collective agreement applies to all employees in a "bargaining unit", whether or not they are union members.
- c) The Act provides for individual contracts to supplement a collective agreement. This provision, unknown in general labour legislation, is meant to assuage the fear of some professional workers that collective bargaining would submerge individual differences and discourage personal initiative.
- d) The Steering Committee made it clear that it considered trade union affiliation and strike action unacceptable for professional workers and the draft Act provided for arbitration as the final step in dispute settlement. The Labour Relations Act, on the other hand, recognizes the right to strike as labour's ultimate bargaining weapon.

9. Reaction to the Draft Act — While union spokesmen have objected to separate bargaining legislation for professional employees, the reaction from APEO has not been entirely unfavourable. The association decided not to oppose the draft Act in principle although it might consider asking for changes in certain of its provisions.

By sponsoring the publication of a series of articles on the pros and cons of collective bargaining 32/, the Association showed that it was at last rethinking its position. In introducing the series, APEO pointed out that its opposition to collective bargaining had reflected the views of a large majority of the profession, "up to the present moment". But, it continued

...a group of the members of this profession have been busily constructing a road leading in a different direction—its destination—collective bargaining under law for professional engineers. There is no doubt that a large number of professional engineers prefer to travel in this direction. We do not believe this group represents anything approaching a majority of our members at the present time. The numbers have, however, been increasing and, perhaps more significantly, there is no question that there is a growing body of opinion which states in effect, 'Let those who wish to bargain collectively do so'. To this some would add the words '...as long as I am not forced in'.... The profession may be approaching the cross-roads where, many of us will be faced with the decision of which road to take. 33/

APEO had travelled a long road itself. This was its first admission that an alternative course existed.

So far no official action has been taken on the proposed legislation. While an eventual amendment to The Labour Relations Act seems more likely than the enactment of special legislation, the only comment that can be made with certainty is that the matter is "under consideration".

We began the study of Ontario engineers at a period of history when collective bargaining was a legal right. We saw how this right was rescinded, at the federal 34/ and provincial level, and how an active minority in Ontario has struggled to have it restored. Recent events suggest that the circle may now be closing. In reaching the end of this story we may indeed be on the threshold of a new era of collective bargaining for professional engineers.



**Collective Bargaining for Ontario Engineers:  
The Present Picture**

Keeping things in Perspective — The terms of reference for this study demanded an emphasis on collective bargaining, in spite of the fact that only a small proportion of Ontario engineers have shown an interest in this form of action. It should be remembered that less than 10% of Ontario engineers are presently represented on the EMC <sup>35/</sup> and that these EMC units, plus the Northern Electric groups, made up the total number of engineers (approximately 2,000) who endorsed the Steering Committee's recommendations in 1966. <sup>36/</sup> Some of these groups have actually established fairly satisfactory bargaining relationships with their employers; they just want to see their right to bargain entrenched in a law.

A few other groups of engineers may also bargain collectively; there is, for example, an interesting group at the City of Ottawa. <sup>37/</sup> But bargaining groups are difficult to trace if they do not belong to the EMC. (If they were certified they could be identified through public records).

Engineers in the Civil Service — I have not discussed the Ontario Civil Service engineers, except to list them among the members of the EMC. It should be noted, however, that this EMC unit includes only 150 of the engineers working for the Provincial Government; about 450 belong to the Civil Service Association of Ontario (CSAO). Some hold dual memberships. While an amendment to the Civil Service Act (1965) gave Ontario Government employees collective bargaining rights, Regulation 239 excludes any classification of civil servants in which more than 50% have supervisory or advisory responsibilities. This may have the effect of excluding the professionals, although the matter has not yet been clarified. In any case,

the designation of CSAO as the sole bargaining agent for Civil Service employees seems to preclude separate bargaining for the professional engineers.

The "Falconbridge Decision" — Although "professional engineers" (i.e. members of, or licensed by, the APEO) are specifically excluded from the provisions of the Ontario Labour Relations Act, a recent decision (1966) by the Ontario Labour Relations Board may affect them indirectly. This decision, certifying a white-collar bargaining unit at Falconbridge Nickel Mines, recalls some problems of definition that have arisen under the Quebec Labour Code. 38/ The Board excluded the "professional engineers" at Falconbridge, in accordance with the law, but it included the other professionally trained employees engaged in engineering work (geologists, metallurgists, etc.) in a bargaining unit of "office, clerical and technical employees". It certified the United Steelworkers as bargaining agent. Previous practice had been to exclude professionals from non-professional bargaining units, with the exception of those who slipped in inadvertently. 39/

Will the Falconbridge decision create a precedent? Will this set a pattern in private industry by which non-registered engineers (foreigners, for example) will be included in company bargaining units while registered engineers working beside them are not? What repercussions will this bring?

### REFERENCES

- 1/ Two certifications issued under the Act (for City of Toronto employees) did, in fact, include professionals—doctors, lawyers, engineers, surveyors, etc.—in the bargaining unit. J. Finkelman, Q.C., former chairman of the Ontario Labour Relations Board, points out that "some of these groups later protested vigorously against being included in the bargaining unit and being covered by the agreement which was subsequently negotiated. But the interesting thing was that although all employees in the City of Toronto were notified that an application had been made which would include them if it were successful, there was no objection from any single person. That is why they were included in the bargaining units". (Remarks delivered to Centre for Industrial Relations Conference, University of Toronto, Dec. 15-17, 1965).
- 2/ The unit includes engineers and scientists and represents all those in "Management Personnel Categories 1-6". As in Quebec Hydro, it cannot represent those at the Director or Regional Manager level, although the latter may have associate memberships. See SOHPEA, Society Guide, (Toronto, September 1, 1965), p. 2.  
The leadership of the unit originally came from Head Office where, it is said, engineers were "stockpiled" by the Commission for future needs. An industrial relations manager from one of Hydro's northern installations says that engineers there, being more fully utilized, lack initiative in, or have no time for, collective bargaining. He deduces that routine work, poor salaries, being lost in a cubbyhole, cause unrest at Headquarters. Also he notes individual initiative to better working conditions is more effective on a particular site than in a huge head office, especially when a Provincial minister is a sort of absentee landlord.
- 3/ See pp. 215-230.
- 4/ Contemporary proponents of collective action have not changed their view on these matters. The proposed Professional Negotiations Act (see p. 235) does not envisage trade union affiliation and specifically forbids the right to strike.
- 5/ Professions not specifically excluded are automatically covered. Some of these (e.g., librarians and nurses) have been certified separately or included in bargaining units with other employees.
- 6/ Quoted in "Background: First of a Series", The Professional Engineer (June 1960).
- 7/ The American engineers already did most of the original designing, experimentation, etc. Incidentally, this is another factor which Ontario engineers would like to see changed.
- 8/ From the message of J. Herbert Smith, president of APEO, in The Professional Engineer (July-August 1953).



- 9/ "Background: Second of a Series", The Professional Engineer (July 1960).
- 10/ Ibid.
- 11/ "Background: Last of a Series", The Professional Engineer (September 1960).
- 12/ Ibid.
- 13/ All quotations from this exchange of letters were taken from "Background: Last of a Series".
- 14/ Quoted in SOHPEA, Society Guide, "External Program" (p.9).
- 15/ It was difficult for CAPE to get much representation on Council. Apart from the problem of securing campaign funds, CAPE faced the following practical difficulty. Council representation was based on an equal number of engineers per branch of the profession but CAPE members could only field candidates in the few branches (e.g., electrical) where employee engineers are concentrated. The other branches of the profession are made up mainly of consulting engineers. Thus the latter, while constituting a minority of the Association membership, have access to the majority of Council positions.
- 16/ See p. 209.
- 17/ Groups of Northern Electric engineers had also belonged to EMC but withdrew in 1962. The above list covers company groups represented on EMC as of June 1967 and was provided by L.C. Sentance, Executive Director of APEO. SOHPEA withdrew shortly after this list was compiled.
- 18/ In one case, Hawker-Siddeley, the membership was evenly divided between engineers and scientists.
- 19/ A senior official of Ontario Hydro was quoted as asking how, with 1,000 to 1,200 engineering employees, he could speak to each one individually.
- 20/ D.H. Corker, "Formation and History—Operation and Activities of the Professional Engineers Group, Toronto Hydro-Electric System", unpublished paper, May 31, 1967, pp. 3-4.
- 21/ If agreement is not reached in the JSMC, either party may, by notice in writing to the other, require that the matter be referred to a meeting of the General Manager and the President of the Society, or their personal delegates. If an accord is not reached at this meeting Management and SOHPEA may mutually agree to refer it to a board of mediation or to arbitration. The Board of Mediation shall consist of the General Manager of Ontario Hydro or his designate, the President of SOHPEA or his designate and a Chairman selected by the two of them. Failing settlement by mediation, the matter may be referred by the Society to the Commission for arbitration. Thus the ultimate decision rests with management.

22/ The Commission and the Society name contact representatives for each division or major department. When requested in writing by a member, the contact representative of the Society will approach the contact representative of the Commission with a written report of the grievance. If a satisfactory settlement is not reached by these representatives and the department head, the next step is the redress committee. This consists of no more than three members of each side. In case of failure to reach agreement in the redress committee in a given time period, the complaint is next referred to the JSMC. Grievances originating with management may be introduced at this stage. A unanimous decision by JSMC is binding. If such a decision is not reached the final stage is arbitration by a three-man board. None of these shall be a member of SOHPEA or an employee or member of the Commission. Each side names a member of the Board; the two members then choose a Chairman from a previously agreed upon list of arbitrators. The majority decision of the Arbitration Board is binding on both parties. So far arbitration has not been used. It is expensive, takes time, and the Commission dislikes third party intervention. Pressure is on the GM to settle the stubborn grievances that filter up to him.

23/ Note that the Canadian Council of Professional Engineers deliberately excludes City of Montreal Engineers from its salary survey because it considers them "out of line". Bell engineers have called the CCPE Survey a "tool of management" in their salary briefs.

24/ Until 1966 the dissenting group had had a particularly good relationship with its employer. Indeed APEO's Executive Director cited this group as a successful example of the Association's policy:

...Canadian General Electric Professional Engineers group preaches and practices the "collective enlightenment" approach, which seeks to combine a "sounding board" relationship with the employer, and to supplement this with a much closer relationship between group and professional associations, the professional association being expected to undertake such works as will foster greater understanding and closer co-operation between employer and employee. (University of Toronto Centre for Industrial Relations, Conference Proceedings (1965) p. 67).

But this utopian situation did not last indefinitely. When certain changes on the management side threatened their cordial relationship with the Company, employee engineers in this unit decided that their rights must be entrenched in the law. They showed this in 1966 by endorsing the Brief for a Professional Negotiations Act. (See pp. 234 and 235).

25/ Canadian National Telecommunications Professional Engineers Group; Canadian General Electric Guelph Engineers' Group; Council of Northern Electric Engineers, London Works; Council of Northern Electric Engineers and Associates, Belleville; Hawker-Siddeley Toronto Professional Engineers' Association; Society of Ontario Hydro Professional Engineers and Associates; The C.S.A. Testing Laboratories Professional Engineers' Group.



- 26/ Letter to E.G. Phillips, P. Eng., Chairman of the Steering Committee on Negotiation Rights for Professional Staffs, February 5, 1965.
- 27/ Ibid.
- 28/ Note that the list now includes all members of the EMC.
- 29/ Brief presented by the Steering Committee on Negotiation Rights for Professional Staffs (1966), p.3. It will be remembered that Quebec engineers' unions repudiated the Labour Code for the same reason.
- 30/ Ibid.
- 31/ The 1964 Brief stated specifically that a Professional Negotiations Act should "prevent professional staff groups from affiliating with organizations of employers or trade unions". (p.6)
- 32/ "Roundtable - Subject: Collective Bargaining", in The Professional Engineer and Engineering Digest, September - December 1966.
- 33/ "The Profession - at the Crossroads?" ibid., Volume 27, No. 9 (September 1966), 924.
- 34/ Some Ontario engineers, working in interprovincial enterprises such as Bell Telephone, came under federal jurisdiction. These will be affected directly by any Task Force recommendations. Those under provincial jurisdiction will be affected to the extent that the Task Force recommendations influence provincial legislation and practice.
- 35/ See membership statistics for EMC units, June 1967, p.224. Remember also that these units are not confined to professional engineers.
- 36/ See pp. 234 and 235.
- 37/ In 1966 the City passed a by-law recognizing the Civic Institute of Professional Personnel as bargaining agent for all professionals, including a number of engineers. It appears that these engineers became keen on collective bargaining when they felt they were falling behind the City's union of non-professional employees, organized by CUPE. Moderate wage increases were achieved in the first contract, but professional clauses were deferred to future negotiations.
- 38/ See Section on Quebec, particularly pp. 167-168 and 186-187.
- 39/ Addressing the University of Toronto Centre for Industrial Relations Conference (December 1965) Jacob Finkelman, then Chairman of the Ontario Labour Relations Board, noted that:
- "There may be professionals included in bargaining units unwittingly, ...if we did include anybody against their will, not giving consideration to their desire as to whether they should or should not be included in the bargaining unit, that would be primarily because you did not make it known to the Board that you were included in the bargaining unit and that you did want out".  
(Conference Proceedings, University of Toronto Centre for Industrial Relations (December 1965), p.5).



## PART V

### THE EXPERIENCE OF THE ENGINEERS: AN EXAMPLE OF THE PROBLEMS WHICH PROFESSIONAL WORKERS AND THEIR EMPLOYERS FACE WHEN THEY ADOPT A COLLECTIVE BARGAINING RELATIONSHIP

To analyse the problems which professional workers and their employers face when they adopt a collective bargaining relationship (my Study for the Task Force), it was necessary to consider the experience of a number of professional groups. The engineers were chosen for special study as they are unique among the "established professions" 1/ in having such a high proportion of their members in paid employment. 2/ Moreover, in spite of the fact that only a small minority of employee engineers have shown an active interest in bargaining collectively, those who have done so have had a varied and interesting experience.

The professional engineer in paid employment has been subject to conflicting pressures for and against collective action. These may be summarized as follows:

#### The Case for Collective Action

Proponents of collective bargaining for professional engineers point out that (a) the concentration of employment in large scale enterprise (where communication with management is impeded by the sheer force of numbers as well as by bureaucratic organization) 3/, and (b) the trend toward functional specialization (which limits mobility as a bargaining weapon) have destroyed the myth of individual initiative and have, in fact, made collective action necessary to protect individual rights, financial and professional. They support their case for collective action by comparing the financial position of employee engineers with self-employed

members of the same profession, with engineers employed in administrative positions, and finally with unionized non-professional workers. Moreover, they appeal to the engineer's professional conscience, insisting that collective action is needed, particularly in profit-oriented enterprises, to assure professional standards and to protect professional ethics. Proponents of collective bargaining note, for example, that Ralph Nader might not have had to write his book if engineers working for American car manufacturers had organized and negotiated a contract with "signing rights" like those achieved by unionized engineers in Quebec.

#### Impediments to Collective Action

Proponents of collective action for employee engineers have fought an uphill battle, frequently against formidable odds. It is clear that professional engineers as a whole still have a strong psychological resistance to formal collective bargaining. As professionals, they feel a sense of social identification with management. Moreover, because so many of them still equate collective bargaining with unsavoury trade union practices, they consider it not only detrimental to their professional status but incompatible with professional ethics.

This psychological resistance has been reinforced by legal restraints <sup>4/</sup> and by the concerted opposition of employers and licensing bodies. The historical account has been, in a sense, a chronicle of the efforts by employers and licensing bodies (the professional associations) <sup>5/</sup> to prevent collective action under law for employee engineers, although these same licensing bodies set fee schedules for private practitioners. Some professional associations have set up internal committees to handle the

problems of their employee members, hoping to forestall demands for legal bargaining rights. 6/ With the notable exception of British Columbia 7/, moreover, the licensing bodies have formally opposed all proposals for collective bargaining under law, whether these proposals involved amendments to the professional Act or to general labour legislation. 8/ And in Saskatchewan, where the Association felt that it was "stuck with" legal bargaining rights, it managed to secure an amendment to the law permitting (though not requiring) professional engineers to "opt out of" bargaining units. 9/

I dealt in greatest detail with Ontario and Quebec. In Ontario, the APEO has been successful, so far, in its battle against legal bargaining rights although there are some recent indications that it may be relaxing its position. 10/ In Quebec, however, a unique social and political climate and an unusual type of trade union movement (the CNTU), contributed to the defeat of the CIQ's position. The professional association, which had once written a formal proscription on collective bargaining into its own Code of Ethics (Article 35) 11/ and opposed the incorporation of engineers units, even though incorporation was legal under the Professional Syndicates Act 12/ finally lost the battle on the legislative front (with the passage of the Labour Code, 1964) and weakened its own position in the process.

While Quebec and Ontario employers 13/, along with the licensing bodies have, by and large, opposed collective bargaining for their professional engineers, not all of them have resisted it successfully. The collective bargaining experience of some Quebec groups in particular, their problems and their achievements, provides some useful empirical data on which to base the analysis for my Task Force Report.



## Collective Bargaining Problems

Let us now review the collective bargaining experience of these engineers under four main headings:

Definition of the Bargaining Unit.

Choice of the Bargaining Agent.

Special Professional Issues.

Method of Dispute Settlement.

Definition of the Bargaining Unit — The engineers have faced two main problems in the establishment of their professional bargaining units:

1. There is the question of professional exclusiveness;
2. There is the problem of management exclusions.

1. Professional Exclusiveness — Ontario engineers have not practised professional exclusiveness in their collective bargaining relationships. They have been concerned with keeping themselves apart from non-professional workers rather than from members of other professions. 14/ In fact, they nearly always included scientific associates in their bargaining units 15/ and the proposed "Professional Negotiations Act" makes no distinction between single and multi-professional units. Presumably each case would depend on the wishes of the professional employees themselves.

The situation is quite different in Quebec. The authors of the new Labour Code (1964) in this Province, influenced perhaps by the tradition of the Professional Syndicates Act, provided that professionals may only bargain in units confined to members of a single profession. In the case of the engineers, "members of a single profession" has been interpreted, by and large, to mean members of the CIQ. Experience has shown that this legal

requirement to bargain in homogeneous professional units can impede the establishment of bargaining relationships for engineers, particularly in private companies where the distinction between engineering and technical functions is frequently obscured and where considerable members of immigrant engineers (not members of the CIQ) are employed. 16/ The issue of eligibility for non-registered engineers was brought to arbitration at Hydro-Quebec. The Hydro contract had, of course, been negotiated outside the provisions of the Labour Code, and some non-registered engineers had been included in the Commission's original list of eligible employees. The arbitrator ruled that these engineers must remain in the bargaining unit for the duration of the existing contract. 17/ However, Hydro was determined to exclude them under its next agreement and a new contract, just signed, limits the union jurisdiction to employees who are engineers "au sens de la loi", that is members of the CIQ (Article 1.01). At the City of Montreal, on the other hand, the most recent collective agreement, like the one that preceded it, covers all engineers engaged as such by resolution of the Executive Committee (Article 2.03)

2. The Problems of Management Exclusions -- The establishment of a demarcation line between labour and management functions has been an agonizing problem for employee engineers, a problem they share with other professional workers. Spokesmen for the engineers have insisted that the definition of "employee" under labour legislation is inappropriate to professional workers and deprives a disproportionate number of them of the right to bargain collectively. Management has argued, on the other hand, that a more flexible definition of employee status in the case of professional workers would undermine the authority structure upon which the efficient administration of an enterprise depends.

We saw how unionized engineers in Quebec have preferred to incorporate under the Professional Syndicates Act and rely on power relationships to define their bargaining units, rather than submit to the Labour Code and risk a narrow interpretation of "employee" status by the Labour Relations Board. By forcing their employers, at the City of Montreal and Hydro-Quebec, to recognize them "voluntarily"<sup>18/</sup>, that is, without the certification procedures of the Labour Code, they have managed to include some "cadres" (supervisory) personnel in these professional bargaining units. Their agreements recognize the responsible nature of professional employment by excluding only those professional engineers with hiring, firing and promotion rights over other professionals, as well as those who are clearly employed in a confidential capacity or in the top levels of administration. With Hydro and the City as a precedent, engineers at the Government of Quebec were able to achieve the same terms, and official certification, under the Civil Service Act.

Sponsors of a "Professional Negotiations Act" in Ontario, it will be remembered, have cited the problem of management exclusions to justify their demand for special legislation. <sup>19/</sup> Under the Draft Act that they have proposed, a professional worker, thus an engineer, would be eligible for an employee bargaining unit unless he

...has final authority with respect to the conditions of employment of professional employees—and is in a confidential capacity with respect to the regulation of relations between professional employees or professional staff associations and employers (Article 1(1)(e)).

This is, in effect, the solution reached, without the help of legal provisions, by the unionized engineers in Quebec.



Choice of the Bargaining Agent — Proponents of collective bargaining in Quebec and Ontario have approached the problem from different ideological positions. Nowhere is this more apparent than in the choice of a bargaining agent. While both Quebec and Ontario engineers have rejected their professional associations as potential bargaining agents 20/, they have taken different positions in the face of the trade union option.

From the earliest initiatives toward collective bargaining to the Draft "Professional Negotiations Act", engineers in Ontario have consistently opposed any possibility of trade union affiliation. In Quebec, on the other hand, French Canadian engineers in the public sector, Hydro-Quebec, City of Montreal, the Quebec Government, have enthusiastically adopted trade union affiliation and are full fledged members of the CNTU. It will be remembered that certain social and psychological factors were advanced to explain the Quebec phenomenon. 21/ It will be remembered also that English language engineers in private companies in Quebec, while interested in the achievements of the French engineers, have kept their distance precisely because of the trade union factor. 22/

Special Professional Issues — When professional workers and their employers adopt a collective bargaining relationship the problems that arise include, but go far beyond, the wages and fringe benefits that have been the main concern of other categories of employees. Engineers' demands, for example, contain clauses on professional improvement, professional status, professional performance and standards. Like other professional workers, moreover, they are concerned with the recognition of individual merit and the encouragement of individual initiative within the framework of a collective agreement.

Professional improvement clauses, provisions for continuing education, sabbatical leave, paid attendance at professional conferences, have been argued on the basis of cost and convenience. Other professional issues are more complex, however, in their implied challenge to management prerogatives. Take for example the problem of protecting professional status, whether this has been threatened in private companies by the incursion of engineering technicians or in the government service by the hiring of outside consultants. For the most part, of course, employers have maintained their right to assign the work as they see fit. 23/ At the City of Montreal, however, the engineers may have broken new ground. Article 22.03 of their first collective agreement is meant to assure them of work appropriate to their professional competence:

For the duration of the present contract, engineers will be assigned to positions whose nature demands the technical knowledge of an engineer.

The same principle is recognized in Article 7.01 of the engineers' contract with the Government of Quebec. While providing that each professional employee must work exclusively for the Government, it undertakes that the employer, in return, will make every possible effort to assign the employee "work appropriate to his professional competence".

Similarly at Ontario Hydro, it was agreed in the JSMC that

...efforts could be extended to increase the level of responsibility of engineering jobs by delegating lower skill work content to clerks and technicians, where applicable. 24/

Engineers, like other professional groups, are now claiming certain rights in the area of decision making, particularly as it affects their professional standards and ethics. Thus they are demanding, and in some

cases achieving 25/, the establishment of professional relations committees for joint discussion of their problems. Most important perhaps, particularly in large-scale profit-oriented enterprises, are the demands for "signing rights" which give engineers final control of standards where professional ethics are involved. Unionized engineers in Quebec point with pride to their accomplishments in this respect. Collective agreements at the City of Montreal, Hydro Quebec, and the Government of Quebec not only recognize the right of engineer to sign his own work but, the ultimate in professional protection, the right to refuse to sign work if he does not agree with it for ethical reasons.

While some groups of engineers have negotiated important clauses on professional improvement and professional performance they have not yet found a consistent formula for the recognition of individual merit within the framework of collective agreements. A number of attempts have been made, and others have been suggested, to solve this problem. I described the promotion and salary review plan worked out at Marconi and the Career plan of the Government of Quebec. Both these plans create machinery for merit increases, on recommendation of a superior, in addition to the automatic (statutory) increases provided in the contract. (The Government's Career Plan, though not yet tested by experience, has the additional advantage of providing "technical cadres", e.g., engineers engaged in the practice of their profession, a parallel path of advancement with administrative personnel, the advancement to be based on a combination of competitive exams and personal recommendations).

The draft "Professional Negotiations Act" in Ontario suggests a different solution for the recognition of individual merit. It proposes



the negotiation of individual contracts within the framework of an overall collective agreement. This could, in theory at least, allow substantial variation around the norm on the basis of individual ability and performance. 26/ In other words, it would prevent individual differences from being submerged as a result of collective action.

Method of Dispute Settlement — In the matter of dispute settlement, as in the question of trade union affiliation, there has been a fundamental difference in policy between Quebec and Ontario engineers. In all their demands for bargaining rights, Ontario engineers have specifically rejected the strike weapon. The draft "Professional Negotiations Act" recommends specific steps for dispute settlement and a clearly defined arbitration procedure in case negotiations reach an impasse. While certain Quebec engineers, including some who ultimately affiliated with the CNTU, have expressed misgivings about the withdrawal of professional services, the engineering unions in the public sector have used strike threats to back up recognition and contract demands; at Hydro-Quebec and in the Civil Service they actually used strike action.

The ethical aspect of strike action and the definition of "essential" professional services are discussed in detail in the main report on Professional Workers. In this study of Professional Engineers the emphasis has been on facts. The main report contains the policy recommendations emerging from the facts as I saw them.

REFERENCES

- 1/ In speaking of the "established professions", I refer to those like medicine, law, etc., which are distinguished by strict educational requirements and corporate structure (with licensing function). Teachers and nurses, on the other hand, in spite of their corporate structure, are still struggling for full recognition as professionals as are some university graduates in specialized fields for which no licensing body exists.
- 2/ See Appendix A-1, Table 1.
- 3/ It will be remembered that even employers have admitted the physical problem of dealing with employees on an individual basis when the number involved goes beyond a certain level. Thus the Association of Professional Engineers of Ontario, a strong opponent of formal collective bargaining, was bound to admit that ...in an organization employing in the neighbourhood of one thousand engineers, it is not administratively possible for each engineer to present his individual employment problems to management.... See p. 218.
- 4/ See Part II. By legal restraints I am not only referring to professional exclusions under labour legislation. In Quebec, for example, where bargaining rights are provided under the Labour Code, problems have arisen from the strict definition of "employee" status and the limitation of the bargaining unit to members of the Corporation of Engineers, (CIQ).
- 5/ Professional associations, it must be remembered, include employer, employee, and self-employed engineers among their membership. Although employee engineers constitute the largest proportion of the membership, Association executives tend to be dominated by senior members of the profession (mainly self-employed or employed in administrative positions) and these are opposed to collective bargaining.
- 6/ For example, PERG in Quebec; EMC in Ontario.
- 7/ See p. 125.
- 8/ See section on Quebec, pp. 152-155, and Ontario pp. 216, 220-223, 226-227, 230-231, 233.
- 9/ See p. 127.

- 10/ See pp. 240-241. As the Draft Professional Negotiations Act precludes trade union affiliation and strike action, APEO may feel that it has eliminated the most objectionable features of collective bargaining.
- 11/ The CIQ was forced to rescind this article when collective bargaining for professionals became the law of the land. (Labour Code, 1964)
- 12/ See pp. 163 and 172 for formal opposition by CIQ to the incorporation of engineers syndicates (at Northern Electric and the City of Montreal) under the Professional Syndicates Act.
- 13/ See pp. 153 and 154 for brief by Quebec employers, and pp. 215 and 218 for Ontario Hydro's opposition to SOHPEA.
- 14/ It will be remembered that the original engineering units were established to prevent professional engineers from being submerged in large industrial bargaining units. See p. 209.
- 15/ See pp. 209 and 245, Reference 18.
- 16/ See, for example, the problems at Northern Electric and RCA Victor, pp. 163-169.
- 17/ See pp. 186 and 187.
- 18/ It will be remembered that "voluntary recognition" at Hydro was achieved after two strikes!
- 19/ See p. 235.
- 20/ This position is spelled out in the Ontario Steering Committee Brief on Negotiation Rights for Professional Staffs (1966), p. 3:

The quasi-technical as well as the licensing bodies of the various professions, including as they do a spectrum of non-supervisory, supervisory and owner members would be ...inappropriate to represent the interests of their employee members in negotiations with their employer members. Moreover, where professional licensing bodies have the power under law to regulate membership in the public interest, there is an implied requirement that they do not use these powers in the pursuit of economic advantages for their members.



21/ See pp. 136-138.

22/ See p. 166.

23/ While the CIQ secured an amendment to the Engineers Act restricting use of the title engineer to registered members of the Corporation, this only had a symbolic status value. It had no effect on the assignment of engineering work.

24/ This recommendation was made with a view to increasing the salary differential between the engineers and the non-professional employees of Hydro. See pp. 229-230.

25/ See, for example, the policy of "continuing discussions" at Marconi (p. 160), the "problem-oriented" committees at Northern Electric (p. 165), the Professional Relations Committee at Hydro-Quebec (p. 190), the joint committees of engineers and Senior Civil Servants at the Government of Quebec (p. 193). The Joint Society Management Committee at Ontario Hydro is a little different as it is the vehicle through which all collective bargaining between SOHPEA and the Commission takes place.

26/ This system has actually been "proved" in the arrangements between the CBC and its performing artists, although the latter are not "professionals" in the same sense as the engineers and, as "free lance" workers, they are not even "employees" according to labour legislation. ACTRA, the artists' union, negotiates the basic agreement, but each artist negotiates his own salary within the framework of this basic agreement.

APPENDIX A-1

EMPLOYMENT STATUS, AGE AND INCOME,

OCCUPATIONAL MOBILITY

TABLE 1

DISTRIBUTION BETWEEN SELF-EMPLOYMENT AND  
PAID EMPLOYMENT IN SELECTED  
PROFESSIONAL OCCUPATIONS  
CANADA 1961

	Total <u>1/</u>	Paid (W & S) Employees		Self- Employed	
	No.	No.	%	No.	%
Accountants & Auditors	29,121	24,918	85.6	4,196	14.4
Actuaries & Statisticians	2,479	2,460	99.2	19	0.8
Architects	2,874	1,809	62.9	1,063	37.0
Dentists	5,234	484	9.2	4,749	90.7
Economists	2,026	1,901	93.8	123	6.1
Lawyers & Notaries	11,777	3,663	31.1	8,111	68.9
Physical Scientists	10,471	10,182	97.2	287	2.7
Physicians & Surgeons	19,835	7,284	36.7	12,549	63.3
Professional Engineers	42,950	41,193	95.9	1,748	4.1
Civil Engineers	11,917	11,126	93.4	788	6.6
Professors and College Principals	8,779	8,708	99.2	19	0.2

1/ The difference between the total in each profession and the sum of "paid employees" and "self-employed" is "unpaid family workers".

SOURCE: DBS 1961 Census, Bulletin 3, 1-14, Table 20.



MEDIAN AND QUARTILE ANNUAL SALARY RATES BY  
LEVEL OF EDUCATION AND YEAR OF BACHELOR GRADUATION, 1961  
ENGINEERS

- 263 -

Year of Bachelor Graduation	Total	Level of Education					
		BACHELOR'S DEGREE			MASTER'S OR DOCTOR'S DEGREE		
		First Quartile \$	Median \$	Third Quartile \$	First Quartile \$	Median \$	Third Quartile \$
Before 1920	44						
1920-1924	236	7,050	11,450	16,450	-	-	-
1925-1929	310	9,150	11,600	15,850	8,700	10,100	13,400
1930-1934	472	8,750	10,950	14,650	9,000	10,550	12,900
1935-1939	578	9,000	11,550	15,000	8,850	10,850	12,650
1940-1944	702	8,900	11,150	14,600	8,850	10,600	14,450
1945-1949	1,545	8,550	10,050	12,100	8,600	10,050	11,950
1950-1954	2,130	8,050	9,050	10,400	8,600	9,850	11,000
1955	256	7,300	8,150	9,150	7,250	8,250	9,300
1956	340	6,500	7,150	7,800	6,650	7,250	7,750
1957	336	6,250	6,700	7,300	6,150	6,650	7,250
1958	401	6,050	6,450	6,850	6,050	6,500	6,950
1959	323	5,350	5,900	6,500	5,600	6,250	6,750
		5,200	5,550	5,900	-	-	-
Year Not Stated	15	7,550	9,450	10,750	-	-	-
Total All Years	7,698	6,950	8,350	10,250	7,450	9,050	10,900

SOURCE: Department of Labour, Ottawa, Bulletin No. 10, Engineering and Scientific Manpower Resources in Canada, June 1961, Table 14, page 30.

The statistics in this table are based on a sample survey of professional personnel enrolled in the Register of Scientific and Technical personnel maintained by the Federal Department of Labour. One third of the total Register is surveyed each year as part of a continuous survey program. In 1961 there were 9,651 respondents in the Engineers group.

This table excludes 1,953 of the respondents: 769 self-employed, 27 unemployed and 1,157 who did not answer the question. Those working on salary plus commission were not required to answer.

TABLE 3

OCCUPATION BY AGE  
DETAILS OF SELECTED PROFESSIONAL OCCUPATIONS  
CANADA 1961

Profession	Total	Row Percentage					
		-24	25-29	30-34	35-44	45-54	55-64
Architects	100.01	4.19	14.83	21.12	33.54	15.24	6.80
Engineers	100.01	7.42	17.28	18.13	34.28	14.44	6.71
Chemists	100.00	12.13	17.44	20.35	29.44	13.76	5.59
Physicists	100.00	11.88	19.31	22.32	33.33	9.44	3.15
Phys. scientists	100.01	11.19	19.93	22.52	31.07	11.31	3.11
Veterinarians	100.00	3.41	12.47	18.37	37.73	16.40	5.45
Biologists	100.00	13.92	14.95	19.21	30.49	14.05	6.24
Agronomists	100.02	13.81	11.40	13.95	25.97	21.05	10.85
Physicians & surgeons	100.00	2.45	12.04	17.29	32.35	18.98	11.39
Dentists	100.00	2.34	9.86	12.47	30.83	14.70	19.18
University Teachers	100.01	4.75	12.96	17.48	31.52	20.33	9.55
Accountants	100.00	7.24	15.26	16.18	27.61	20.37	10.25
Economists	100.00	11.27	18.85	17.96	28.97	14.93	6.49
Jurists	100.00	1.67	14.11	18.01	26.05	17.01	12.62
Administrators & executives, government	100.00	2.67	5.50	7.94	31.59	29.45	17.61
Directors, managers & working Proprietors	100.00	2.73	7.15	12.35	30.07	28.19	14.70
							4.81
							5.24

This table was taken from S.G. Peitchinis, "Age Employment, Income Profiles of Professional Workers in Canada". Unpublished paper, Department of Economics, University of Western Ontario, 1967 (page 7).

SOURCE: Census of Canada, 1961, Bulletins 3.1-13 and 3.1-9, Tables 17 and 18.

APPENDIX A-2

FEDERATION DES INGENIEURS ET CADRES DU QUEBEC:

AFFILIATED SYNDICATES AND MEMBERSHIP STATISTICS

(April 1967)



SYNDICATES AFFILIATED TO THE FEDERATION  
DES INGENIEURS ET CADRES DU QUEBEC (CNTU)

<u>Syndicate</u>	<u>Membership (April 1967)</u>	
Syndicat professionnel des ingénieurs de l'Hydro-Québec	270	
Syndicat professionnel des ingénieurs du Gouvernement du Québec	351	(404)
Syndicat professionnel des ingénieurs forestiers du Gouvernement du Québec	122	(146)
Syndicat professionnel des agronomes du Gouvernement du Québec	281	(350)
Syndicat professionnel des arpenteurs-géomètres du Gouvernement du Québec	30	
Syndicat professionnel des comptables agréés du Gouvernement du Québec	67	
Syndicat interprofessionnel de la fonction publique du Québec	546	(744)
Syndicat professionnel des ingénieurs de la Ville de Montréal	310	
Syndicat des agronomes de la Ville de Montréal	7	
Syndicat des architectes de la Ville de Montréal	33	
Syndicat des architectes-paysagistes de la Ville de Montréal	11	
Association professionnelle des arpenteurs-géomètres de la Ville de Montréal	26	
Association des chimistes professionnels de la Ville de Montréal	7	
Syndicat des comptables agés de la Ville de Montréal	5	
Syndicat des dentistes de la Ville de Montréal	12	
Syndicat des médecins-vétérinaires de la Ville de Montréal	23	

Syndicate

Membership (April 1967)

Syndicat des professionnels de la  
Ville de Montréal

15

Association des cadres administratifs  
de la Cité de St-Léonard

12

---

NOTES: After the Engineers' study was completed, the syndicates of government employed professionals, with the exception of the Chartered Accountants, merged to form le Syndicat des professionnels du Gouvernement du Québec.

Numbers in brackets refer to the number of professionals in the bargaining unit, where this is larger than the union membership.

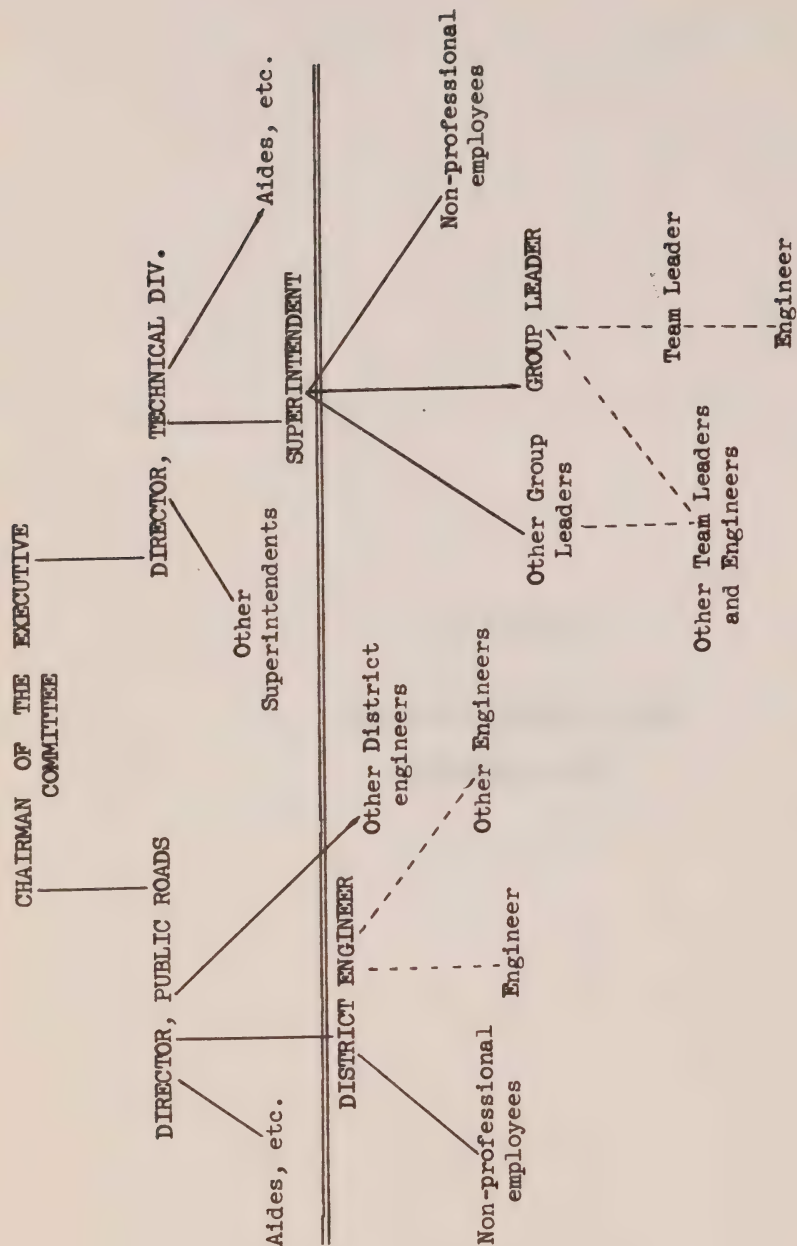




APPENDIX A-3

SAMPLE ORGANIZATION CHART:

CITY OF MONTREAL



Explanation:

- solid line means hiring and firing authority
- broken line means no hiring and firing authority
- all engineers below double line are included in bargaining unit.

## BIBLIOGRAPHY

### Books, Articles, Reports

- Alba, Paul                      Our Conception of the Role and Function of Engineers and Supervisory Staff in the Trade Union Movement. Report presented by Paul Alba for the International Conference, Paris, October 1961.
- Association of Engineers of the Bell Telephone Company of Canada, "Study of Remuneration of Level I and Level II Engineers in the Bell Telephone Company of Canada", (1966).
- "Background", Series of three articles, The Professional Engineer, June, July, September, 1960.
- Bambrick, J.J. and              "Professional Status - Goal of Engineering Unions".  
Zagath                      Management Record, Vol. XVIII (1955), pages 279-281.
- Bedolis, R.A.                      "Union profile: The Technical Engineers",  
                                    Management Record, Vol. XXXVI (1963), pages 35-41.
- Blum, A.A.K.                      "Prospect for Organization of White Collar Workers",  
                                    Report Card, Vol. XIII, No. 1 (September 1964).
- Booth, A.A.K.                      "Another Look at the Causes for Professional Bargaining Groups", Journal of Engineering Education. (Dec. 1954) pages 358-361.
- Bournival, Pierre              "La profession ou le syndicalisme", Bulletin,  
                                    C.I.Q. Vol. XX, No. 5 (juin-juillet 1963),  
                                    pages 3-7.
- Boyd, A.D.                      "Some Aspects of Engineering and Scientific Manpower in Canada". Paper delivered to Canadian Political Science Association Conference on Statistics, June 1967.
- Brunet, Yvan                      Rapport du Président présenté au Congrès de la Fédération des Ingénieurs et Cadres du Québec. Various years, (N.B. janvier 1966 "Pour un syndicalisme de cadres intégré").
- Bryant, Don                      "The History of the Quebec Engineers' Syndicates", Cadres, February, March and June, 1966.
- Cardin, Jean-Réal              "Organisation professionnelle et syndicalisme", Relations industrielles/Industrial Relations, Vol. 16, No. 4 (octobre 1961), pages 427-431.



"Réflexions sur nos corporations professionnelles", Relations industrielles/Industrial Relations, Vol. 17, No. 3, (juillet 1962), pages 227-241.

"La loi des relations ouvrières codifie la division des classes", La Presse, 25 novembre 1963.

"Une montée inéluctable en économie moderne", Cadres, Vol. I, No. 6 (novembre 1964), page 7.

"Syndicats de cadres", Maintenant, No. 36 (décembre 1964), page 415.

"Le droit d'association, son extension, ses limites", Le Code du travail du Québec 1965, XXe Congrès des relations industrielles, Presses de l'Université Laval, Québec, 1965, pages 35-59.

"Droit Nouveau", Maintenant, No. 42 (juin 1965), page 205.

Arbitration awards under collective agreement between Hydro-Quebec and SPIHQ, January 1968.

Carpenter, M.T. "Unionization of Professional Personnel: a Case History", Research Management, Vol. II, No. 4, (1959), pages 221-230.

Chandler, E.L. "Union and the Engineer", Mechanical Engineering (Oct. 1944), pages 826-830.

Chartier, Roger "Le syndicalisme de cadres et la législation québécoise du travail", Relations industrielles/Industrial Relations, (Université Laval), Vol. 20, No. 2 (1965).

"Supervisory and Managerial Unionism under Quebec Labour Legislation", The Canadian Personnel and Industrial Relations Journal, Vol. 13, No. 5 (November 1966).

The Management of Professional Employees, Industrial Relations Centre, Queen's University, Reprint Series No. 10, 1968.

L'Ingénieur Salarié dans l'Entreprise. Address to Annual Meeting of Canadian Council of Professional Engineers, Montreal, May 29-June 2, 1967.

Chaumont, Maurice "Malaise et Participation des Cadres". Bulletin social des industriels (février 1965), pages 73-83.

- Chevalot, Teddy "Les ingénieurs exigent, pour eux, le droit de se syndiquer", La Presse, 27 octobre 1963, page 4.
- "Les ingénieurs entre le syndicalisme et le corporatisme", La Presse, Série d'articles, novembre 1963.
- Collective Bargaining for Professional Employees. National Society of Professional Engineers, Washington, 1957.
- Congress of Canadian Engineers. Proceedings of Annual Meeting. Montreal. May 29-June 2, 1967.
- Crispo, John H.G. Collective Bargaining and the Professional Employee. (ed) Conference Proceedings, University of Toronto Centre for Industrial Relations. December 15-17, 1965.
- Culley, Jack, F. A Primer on Engineering Unionism. Iowa University Bureau of Labour and Management. Reprint Series No. 12, 1959.
- Danielson, Lee E. "Management Relations with Engineers and Scientists" Industrial Relations Research Association Proceedings, 1957, pages 314-317.
- "What are the Special Personnel Problems of Scientists and Engineers?", Personnel Administration, (September-October 1964), pages 41-44.
- Demers, Pierre "Report to Council on a Meeting with the Executive Committee of the Professional Engineers' Group of Hydro-Québec". Montreal, 1962.
- Department of Labour, Ottawa, Bulletin No. 10. Engineering and Scientific Manpower Resources in Canada, June 1961.
- DBS 1951 Census, Vol. IV Tables 4, 21, 23.  
1961 Census, Vol. III Part 2, Table 15.  
Bulletin 3, Tables 17 and 20.  
Bulletin 4, Table B-4.
- Deutsch, Z.C. "Collective Bargaining: Does it Conflict with Engineering Ethics?", Chemical and Metallurgical Engineering (August 1944), pages 96-100.
- Deutsch, Z.C and Shea A New Look at Engineer Attitudes: How Professionals see Employment, Incentive, Management Relations and Other Job-related Factors. New York, 1961.
- Drucker, P. "Management and the Professional Employee", Harvard Business Review (May-June 1952), pages 84-90.

Dubois, Jean

"Les cadres à l'âge de l'automatisation", Revue de l'action populaire (mai 1965), pages 531-543.

"Les cadres et pouvoir dans l'entreprise", Revue de l'action populaire (juillet, août 1965), pages 841-857.

"Les cadres vus par eux-mêmes", Revue de l'action populaire (janvier 1965), pages 71-84.

Duino, E.J.

"Reading on Unionization of White Collar and Professional Employees", I.L.R. Research No.3, 1965, pages 15-17.

Dvorak, E.J.

"Will Engineers Unionize?", Industrial Relations, Vol. II, (May 1962), pages 45-55.

"The Engineer in the Labor Picture" Engineering and Science Monthly, Vol. VII, No. 3 (March 1944), pages 15-17.

"Engineers Need Unionism", American Federationist, (May 1955), pages 19-20.

"Engineers Organized, Fortune, (June 1954), pages 68-70.

"Engineers Protest Affiliation with sub-Professionals", Civil Engineering, Vol. XIII, No. 7 (July 1943), pages 337-338.

"Engineers' Union Fights for Life", Fortune (May 1960), pages 246-252.

"Engineers' Stand on Right to Work", Business Week, October 25, 1958, page 139.

"Engineering Associations Take on a Union Patina", Business Week (August 28, 1954), pages 108-111.

"The Engineering Union - Dinosaur in the Space Age", Reprint from American Engineer, July 1961.

"Engineering Unions Grow", Steel (August 13, 1956), pages 53-54.

Evans, T.H.

"Let's Look at the Causes for the Professional Collective Bargaining Groups", Journal of Engineering Education (March 1954), pages 389-392.

Fernelius, W.C.

"Why Professional Employees Should Not be Unionized". Chemical and Engineering News (Nov. 8, 1954), pages 4457-4461.



- Fisher, E. "Why Engineers Join Labor Organizations", Engineering and Science Monthly (June 1946).
- Forrest, T. Carr "Professionalism or Unionism - Facing the Issue", Reprint from American Engineer, March 1954.
- Forshay, R.L. "Collective Bargaining for Professional Employees", Mechanical Engineering (Nov. 1940), pages 968-975.
- Francoeur, Fernand "Les ingénieurs, sont-ils syndicables?", Le Travail (avril 1964), pages 10-11.
- Goldstein, B. "The Perspective of Unionized Professionals", Social Forces, Vol. XXXVII (May 1959), pages 321-323.
- "Some Aspects of the Nature of Unionism Among Salaried Professionals in Industry", American Sociological Review, Vol. XX (1955), pages 199-205.
- "Unionism as a Social Choice: The Engineer's Case", Monthly Labor Review, Vol. XXXVI (April 1963), pages 365-370.
- "Unions and the Professional Employee", Journal of Business, Vol. XXVII (1954), pages 276-284.
- Greenwood, David C. The Engineering Profession and Unionization, Public Affairs Press; Washington, 1960.
- Griffin, C.W. "Why Oppose Collective Bargaining", Civil Engineering (May 1955), page 290.
- "Le groupe des ingénieurs professionnels de l'Hydro-Québec", Bulletin C.I.Q., Vol. XXI, No. 1 (février-mars 1964), page 3.
- Harvey P. et Ferland, P. L'Etat actuel des institutions corporatives dans la province de Québec. Etude No. 13, Institut d'économie appliquée, E.H.C., Montréal, 1960.
- Humblet, J.E. "Les cadres et le syndicalisme: vingt ans d'évolution", Revue de Travail (novembre, décembre 1956), pages 1685-1698.
- Les Cadres d'Entreprises: France-Belgique-Royaume-Uni, Editions Universitaires, Paris, 1966.
- "The Implications of Engineer Unionization", Management Record, Vol. XVII (1955), pages 323-328.
- Indix, B.P. et Goldstein, B. "Professional Engineers Look at Unions", 16th Annual Meeting, Industrial Relations Research Association, December 1963.

- Kassalow, Everett "Occupational Frontiers of Trade Unionism in the United States", I.R.R.A. Proceedings (1960), pages 183-208.
- Kemper, John, D. "The Engineer a Member of Management?" American Engineer, August 1961.
- Kornhauser, W. Scientists in Industry: Conflict and Accommodation, Berkeley and Los Angeles: University of California Press, 1962.
- Kornhausser, E. "Some Social Determinants and Consequences of Union Membership", Labor History, Vol. II (Winter 1962), pages 30-61.
- Kuhn, J. "Success and Failure in Organizing Professional Engineers", Proceeding of Sixteenth Annual Meeting, I.R.R.A. 1964, pages 194-208.
- "Labor-Management Committee at Arma Starts Studying Engineers' Future", Business Week (September 17, 1963), page 94.
- "Lâchera ... Lâchera pas ...", Bulletin de relations industrielles, A.P.I. Vol. III, No. 19 (mai 1965), pages 1-2.
- Legendre, François "Les Ingénieurs et Cadres et le syndicalisme", Fédération française des syndicats d'ingénieurs et cadres (C.F.T.C.) Cadres et Professions (novembre 1962), pages 7-10.
- "Perspectives syndicales pour les cadres", Jeune Patron (mai 1962), pages 39-43.
- Lalande, Jean-Marie "Analyse du marché des Ingénieurs au Canada", Thèse de Maîtrise, Université de Montréal, (1965).
- Larsen, T.E. "Unions... A Case History", American Engineer, November 1961.
- Lloyd, John T. and Gray, R.D. "Unionization of Professional Employees", Supervision of Scientific and Engineering Personnel, Bulletin No. 26 California Institute of Technology, Pasadena, 1957, pages 63067.
- Lortie, Alain Chronologie des principaux événements en rapport avec les problèmes des ingénieurs salariés d'avril 1963 à avril 1964, C.I.Q., avril 1964, 4 pages.
- Maréchal, J. "Plaidoyer pour les cadres... par un cadre", Bulletin social des industriels (février 1965), pages 83-93.

- Martiner, F.S. and Warner, G. "Collective Bargaining for Professional Scientists and Engineers", Chemical and Engineering News (November 8, 1954), pages 4457-4460.
- McCoy, L.S. "It Can Happen to You", Civil Engineering, July 1954.
- McEachron, K.B. "Unionization of Professional Personnel", Journal of Engineering Education, Vol. XLIV, No. 3 (1953), pages 148-157.
- Meany, George "Engineers Need Unionism", The American Federationist (March 1955), pages 18-20.
- Megel, Carl J. "Unionism or Professionalism?" Labor Today, Winter No. 3 (1962/63), pages 3-5.
- Miller, Glenn "Unionization of Engineers—A Re-examination", Journal of Engineering Education (June 1955), pages 775-779.
- Moore, D.G. and Renck, Richard "The Professional Employee in Industry", Journal of Business (January 1955), page 58.
- Morse, G.E. "Engineering Ethics from the Viewpoint of Industry", Journal of Engineering Education (November 1954), pages 214-220.
- Normes touchant l'emploi des ingénieurs professionnels, C.I.Q. Montréal, septembre 1959.
- Northrup, H.R. "Engineers, Unions and Management Organization: a Review Article", Journal of Business, April 1962, pages 191-195.
- "Industrial Relations with Professional Workers", Harvard Business Review (September 1948), pages 543-559.
- Les Nouvelles Structures, C.I.Q. décembre 1964.
- Officers of the FICQ, "L'Invention du bouton à quatre trous: Le Conseil professionnel", Cadres (May-June, 1967), page 5.
- Oliver, S.W. "The White Collar Engineers", American Federationist (January 1951), pages 26-28.
- Orrell, Herbert "Engineers Turn to Unionism", Nation (June 21, 1952) page 605.
- Peitchinis, S.G. "Age, Employment, Income Profiles of Professional Workers in Canada". Unpublished paper, Department of Economics, University of Western Ontario, London, Ontario, 1967.



"The Perspective of Unionized Professional", Social Forces,  
Vol. XXXVII (1959), pages 323-327.

Plau, Ronald "Syndicalisme chez les ingénieurs, succès ou échec",  
Thèse de Maîtrise, Département des Relations  
industrielles, Université Laval, (1966).

Prandy, Kenneth Professional Employees: a Study of Scientists and  
Engineers. London: Faber and Faber Ltd., 1965.

A Professional Look at the Engineer in Industry. National Society of  
American Engineers, Washington D.C., September 1956.

Professional Responsibility vs Collective Bargaining. National  
Society of Professional Engineers, Washington D.C.,  
November 1963.

"Professionalism and Unionism, Do Not Mix", Journal of Petroleum  
Technology (June 1954), page 10.

Rapport de la Commission sur la réorganisation des structures, C.I.Q.  
Montréal, octobre 1964.

Rapport sur les salaires de ingénieurs par échelons de responsabilités.  
C.I.Q. Montréal, octobre 1961-1965.

Rapport Annuel, 1960, 61, 62, 63, 64, 65, C.I.Q. Montréal.

Raudsepp, Eugene "How Engineers Rate Company Communication",  
Machine Design, April 1963.

"Reading on Unionization of White Collar and Professional Employees",  
L.L.R. Research, Vol. IX, No.3 (1964), pages 15-18.

A Report to Management on Unionization of Salaried Employees. National  
Association of Manufacturers of the U.S.A.,  
New York, 1958.

Riegel, J.W. Collective Bargaining as viewed by Unorganized  
Engineers and Scientists. B.I.R. University of  
Michigan, Ann Arbor, 1959.

Rude, H.W. "White Collar Unions and the Law", Personnel  
Journal (Feb. 1964), pages 88-93.

Ryan, Claude "Le conflit des ingénieurs de l'Hydro" Le Devoir,  
(June 1965), page 3.

Ryan, W.F. "Methods of Achieving Professional Recognition",  
Journal of Engineering Education, Vol. XXXVII,  
No. 5 (1947), pages 453-460.

- Saint-Amand, André "Le Mouvement syndical chez les ingénieurs",  
Thèse de Maîtrise, Département de Sociologie,  
Université de Montréal, 1965.
- Salomon, B. "The Problems and Areas of Union Expansion in the  
White Collar Sector", I.R.R.A. Proceedings 1956,  
pages 238-244.
- Salomon, B. and Burns, R.K. Unionization of White Collar Employees, Extent,  
Potential and Implication", Journal of Business  
Vol. XXXVI (April 1963), pages 141-165.
- Seidman, J. and Cain, G.G. "Unionized Engineers and Chemists: A Case Study  
of a Professional Union", Journal of Business  
(July 1964), pages 238-258.
- Seymour, Dr. H. "Divided, the Profession Weighs the Pros and Cons  
of Unionization", Industrial Bulletin (January  
1962), pages 17-21.
- Shoch, C.T. "The Professional Union - a Contradiction",  
Journal of Engineering Education (December 1954),  
pages 345-357.
- Smith, J.F., Downie "Engineering Professional Status as Related to  
Labor Unions", Journal of Engineering Education,  
Vol. XXXVIII No. 9 (1948), pages 630-638.
- Society of Ontario Hydro Professional Engineers. Society Guide,  
Toronto, September 1965.
- Special Issue on the Organization of White Collar Workers, Information,  
United Steelworkers of America. Vol. XVII, No. 4,  
(July-August 1959).
- SPIVM Constitution et Règlements du Syndicat profes-  
sionnel des ingénieurs de la Ville de Montréal.
- Strauss, George "Professional or Employee-oriented: Dilemma for  
Engineering Unions", Industrial Labor Relations  
Review, Vol. XVII, No. 4 (July 1964), pages 519-  
533.
- "Professionalism and Occupational Associations",  
Industrial Relations, Vol. II, (May 1963),  
pages 7-31.
- "White Collar Unions are Different", Harvard  
Business Review (September-October 1954),  
pages 73-82.
- "Survey Shows Engineers Thinking About Collective Bargaining Issue",  
Engineering News, November 12, 1953, page 28.

Syndicalisme et organisation professionnelle, 371ème semaine sociale du Canada, Trois-Rivières, Ed. Bellarmin, Montréal, 1960.

Taft, Everett "Down Two Roads", Federation Reporter, Vol. 1, (May 1955), page 7.

"Union Among Engineers", Ninth Annual Proceedings of Industrial Relations Research Association I.R.R.A. Madison (1957), pages 244-248.

"Unionization of Engineers and Professional Employees — Labor's Viewpoint", Management Record (August 1955), page 323.

Taft, J.E. "Why Engineers Join Unions", Personnel (September-October 1957), pages 66-72.

"The Situation of Bell Telephone Engineers", Cadres, janvier-février 1966.

"To Bargain ... Or Not to Bargain", Canadian Electronics Engineering, April 1966.

"Unions and Professions", Mechanical Engineering (November 1941), pages 817-818.

"Unions, Unity or Utopia", Civil Engineering (May 1955), pages 48-52.

Unionization Among American Engineers, Studies in Personnel Policy, No. 155, National Conference Board, New York, 1956.

Unionization of Professional Engineers and Chemists, Industrial Relations Counsellors Inc. (Monograph No. 12, New York, 1946).

"The Wagner Act and the Engineer", Professional Engineer, Vol. XXX, No. 2, pages 12-44.

Wagner, H.A. "Engineer Unions from the Reviewing Stand", Professional Engineer, Vol. XLI, No. 3 (October 1956) No. 4 (December 1956) and Vol. XLII, No. 1 (May 1957).

Walton, Richard E. The Impact of the Professional Engineering Unions. Division of Research, Graduate School of Business Administration, Harvard University, Boston, 1961.

Walz, A.W. "Unionization of Engineers and Professional Employees—Management's Viewpoint", Management Record (August 1955), pages 325-328.



- Ware, Marta "Professional Negotiation", N.E.A. Journal Vol. LI, (1962), pages 28-30.
- "Why White Collar Workers Can't be Organized, Harper's Vol. CCXV, (August 1957), pages 44-50.
- Wilton, L.P. "Suggested Solution for Engineers' Organization Problems", The Engineer and Scientist Vol. V, (January 1957), pages 3-6.
- Wolfson, Theresa "White Collar Unions and Organized Labor", Journal of Educational Sociology (February 1952), page 362.
- Wood, W.D. Occupational Trends and their Implications. Reprint Series No. 1, Kingston: Queen's University Press, Industrial Relations Center, 1964.
- Woolrich, W.R. "The Professional Engineer - Ascending to New Height or Levelling off to Mediocrity", Journal of Engineering Education (April 1953), pages 439-442.
- Yarnall, D.R. "Unionism and Collective Bargaining", Mechanical Engineering (January 1947), pages 80-81.
- Yoder, Ch. W. "Collective Bargaining", Civil Engineering (September 1954), pages 57-60.

#### Journals and Newspapers

Cadres (FICQ)

Canadian Electronics Engineering

The Canadian Engineer

Le Devoir

La Presse

Le Travail (CNTU)

#### Briefs and Submissions

Brief Presented by the Steering Committee on Negotiation Rights for Professional Staffs, Toronto, 1964.

Brief Presented by the Steering Committee on Negotiation Rights for Professional Staffs, Toronto, 1966 including Draft Professional Negotiations Act.

Déclaration générale d'un groupe d'employeurs en ce qui a trait au Bill No. 98—Loi concernant les ingénieurs—aux membres du Comité des bills privés de l'Assemblée législative de la province de Québec, 30 avril 1964.

Mémoire de la C.I.Q. au gouvernement provincial, 28 avril 1964.

Mémoire de la C.I.Q. au Premier ministre et au Secrétaire de la province, Montréal, décembre 1963.

Mémoire pour faire la mise au point quant à certaines prétentions des ingénieurs de la Ville de Montréal, C.I.Q. mars 1964.

Mémoire de S.P.I.V.M. au Premier ministre et au Secrétaire de la province, Montréal, février 1964.

Mémoire relatif aux ingénieurs professionnels à l'égard de la Loi des relations ouvrières, C.I.Q., 4 juin 1963.

### Legislation

Professional Engineers Acts - all provinces.

Labour Relations and Public Service Acts - all provinces and federal.

Professional Syndicates Act, Quebec.

### Collective Agreements

Agreement between Canadian Marconi Company and Salaried Employees Association (Marconi) (Montreal Group), January 1, 1966 - December 31, 1967.

Collective Agreement between RCA Victor Co. Ltd., and RCA Victor Employees' Association, May 16, 1966 - May 15, 1968.

Convention collective de travail entre la Ville de Montréal et le Syndicat professionnel des ingénieurs de la Ville de Montréal, le 1 mai 1964 - le 30 avril 1967; le 1 mai 1967 - le 28 février 1969.

Convention collective de travail entre la Commission hydroélectrique de Québec et le Syndicat professionnel des ingénieurs de l'Hydro-Québec, 1966 and 1968.

Convention collective de travail entre le Gouvernement de la Province de Québec et le Syndicat professionnel des ingénieurs du Gouvernement du Québec.

Letter of Understanding between the Management of Ontario Hydro and The Society of Ontario Hydro Professional Engineers, September 29, 1961.

Agreement between the Toronto Electric Commissioners and the Professional Engineers Group — T.H.E.S. 1965, 1966, 1967.





APPENDIX B

RESUME EN FRANÇAIS

## APPENDIX B

### LES TRAVAILLEURS MEMBRES DES PROFESSIONS ET LA NEGOCIATION COLLECTIVE

#### RESUME

Devant l'expansion du groupe des professionnels dans l'ensemble de la main-d'oeuvre et la proportion croissante de ceux qui exercent leurs fonctions en tant que salariés, la négociation collective pour cette catégorie de travailleurs suscite un vif intérêt. Jusqu'ici, toutefois, elle a donné lieu à plus de controverses que de consensus.

Si, d'une part, certaines centrales syndicales voient dans ce groupe, comme dans le groupe des cols blancs une source possible de recrutement pour renforcer des effectifs menacés d'anémie, les intéressés eux-mêmes, avec leurs associations, leurs employeurs et le grand public, persistent à voir de l'incompatibilité entre le statut de professionnel et le syndicalisme et toute forme de négociation collective. L'ascendant traditionnellement exercé par ces professions et la responsabilité qui s'attache à leurs fonctions et à leurs attributions empêchent d'une façon générale ce groupe de s'identifier avec les autres groupes de travailleurs. Pourtant, ceux dans ce groupe qui sont salariés de grandes entreprises ont à affronter des problèmes qui sont les mêmes que ceux des autres travailleurs.

Or, ce sont ces problèmes d'emploi et aussi l'incapacité chez plusieurs travailleurs de les résoudre individuellement qui font réclamer une action collective, tout au moins dans certains groupes de professionnels salariés.

L'adoption par les membres des professions d'un régime de négociations collectives de type industriel pose un certain nombre de problèmes que, dans



la présente étude, je me suis efforcé d'analyser. Mes constatations et mes conclusions peuvent se résumer comme il suit.

La négociation collective et  
l'éthique professionnelle

Il y a d'abord l'éternelle question: la négociation collective est-elle compatible avec le code d'éthique de la profession. La réponse donnée est affirmative, mais avec certaines réserves.

On a vu certaines professions invoquer, pour s'opposer à la négociation collective, l'incompatibilité de celle-ci avec leur code d'éthique et ces mêmes professions prendre l'initiative d'une action collective pour protéger le revenu de leurs membres indépendants. Car c'est précisément ce qu'elle fait, la profession libérale, quand ses membres s'entendent sur un barème ou un tarif d'honoraires. Si la profession permet à ses membres indépendants d'agir ensemble, comme il le font d'ailleurs, pour protéger leur revenu, pourquoi refuser aux salariés le même droit d'assurer leur revenu et leurs conditions de travail.

Néanmoins, une mise en garde s'impose. Si je ne vois rien de contraire à l'éthique dans l'utilisation de la négociation collective elle-même, à condition, bien entendu, que tel soit le désir de la majorité des membres salariés, il me semble par contre indispensable que la méthode de négociation soit compatible avec le caractère responsable de la profession. Ce qui soulève deux questions corollaires: le mode de règlement des différends et le choix de l'agent négociateur.

### Règlement des différends

Le mode de règlement des différends est probablement le noeud du problème moral qu'affrontent les gens de formation professionnelle quand ils optent pour la négociation collective. C'est aussi une question d'importance pour les pouvoirs publics qui, notez le bien, devront décider si leur intervention est possible ou même souhaitable.

Comme les répercussions d'une cessation de services varient d'un groupe de travailleurs à un autre et même à l'intérieur d'une même profession, la question de la responsabilité professionnelle dans le règlement des différends et d'une intervention des autorités publiques quand les négociations arrivent à une impasse doit s'envisager en fonction du degré d'intérêt public que comportent les services de la profession en cause. Tout en reconnaissant le droit de grève comme un élément essentiel du processus de négociation, certaines restrictions s'imposent, apportées par les intéressés eux-mêmes ou par une intervention des autorités publiques, lorsque des intérêts publics essentiels sont en jeu. A supposer qu'un arrêt de travail dans une profession soit contraire à l'ordre public—et ici se pose de toute évidence un problème de définition—la question morale ou éthique à trancher est moins de savoir si la négociation collective en elle-même n'est pas appropriée que de savoir si on peut trouver un substitut convenable au droit de grève. Il semble bien que ce soit un devoir des autorités publiques de veiller à ce que tout groupe de travailleurs—qu'il ait reçu ou non une formation professionnelle—reçoive un traitement équitable quand on lui a refusé le droit de grève pour des motifs d'intérêt public. En pareil cas, faute de directives précises, il n'est pas sûr que l'arbitrage obligatoire apporte une solution juste aux travailleurs exerçant une profession ou à toute autre catégorie de

travailleurs désignés "essentiels". Les règlements obtenus par la négociation dans des branches connexes ou dans certaines industries choisies, ou dans les deux, pourraient en l'occurrence servir de critère aux sentences arbitrales.

Il y a certes des professionnels qui renonceraient à recourir à la grève en toute circonstances, la jugeant indigne de leur profession, mais il y a en d'autres qui tiennent à en garder le droit comme instrument de négociation. J'estime que, sauf dans des cas exceptionnels, c'est là une décision à laisser aux intéressés. Lorsque la cessation des services ne compromet pas l'intérêt public, il n'y a pas lieu de restreindre le droit de grève par la loi.

#### L'agent négociateur

Le choix de l'agent négociateur est lié étroitement à la question de l'éthique professionnelle. Il faut, à mon avis, exclure la corporation professionnelle chargée de décerner les brevets, car il est peu souhaitable de voir le même organisme exercer la fonction d'intérêt public qui est l'octroi de brevets et la fonction d'intérêt privé qui est la négociation. La possibilité, si faible soit-elle, d'un recours au malthusianisme professionnel, constitue un trop grand risque pour le public. Il y a aussi le fait que la corporation comprend parmi ses membres des employeurs et des travailleurs et que cela évidemment pourrait faire naître des conflits d'intérêts.

On pourrait éviter ces conflits et résoudre le problème d'éthique en désignant comme agent négociateur un organisme distinct—affilié ou non à une centrale syndicale. Certains prophètes de malheur déplorent la possibilité d'une affiliation syndicale mais, à mon avis, ce n'est pas là un



problème important. C'est bien le mode de règlement des différends qui est le point essentiel de la question morale quand des services indispensables sont en jeu, et l'expérience a démontré que les syndicats n'ont pas le monopole des grèves.

Les ingénieurs et les infirmières qui se sont mis en grève au Québec étaient affiliés à la Confédération des syndicats nationaux (C.S.N.), mais les enseignants et les radiologues ne l'étaient pas. On se souviendra aussi que les médecins de la Saskatchewan, quand ils ont cessé leurs services professionnels, ont agi en qualité de membres de l'association médicale de leur province, et non à titre de membres de la C.S.N. ou du Congrès du travail du Canada.

On peut signaler un facteur qui vient compliquer la situation quand il s'agit d'affiliation syndicale. Lorsqu'un groupe organisé de membres salariés des professions exerce des fonctions de surveillance ou de direction sur un groupe organisé de travailleurs qui ne font pas partie des professions, employés dans la même entreprise, et lorsque chacun des groupes constitue une unité de négociation distincte, on peut douter sérieusement de l'opportunité d'une affiliation de ces deux groupes à la même centrale syndicale.

#### Détermination de l'unité de négociation appropriée

Quel que soit l'agent négociateur choisi, les salariés membres des professions rencontrent des difficultés spéciales quand vient le temps de définir leurs unités de négociation. Deux problèmes distincts se posent. L'un se rapporte à la composition de l'unité; doit-elle être par profession ou par industrie. L'autre porte sur la ligne de démarcation à établir entre fonctions d'exécutant et fonctions de gestion. Dans l'un et l'autre cas, une certaine mesure de souplesse est souhaitable.

Pour les travailleurs membres des professions comme pour les autres, la question du choix entre un caractère professionnel et un caractère industriel se pose quand il s'agit de déterminer l'unité de négociation. Le premier prévaut quand le groupe de négociation ne comporte que des membres d'une même profession ou d'une même catégorie spécialisées à l'intérieur d'une même profession. Par contre, le système de syndicats par industrie est adopté lorsque deux ou plusieurs professions s'associent pour négocier, et ce qui est moins fréquent, lorsque des membres et des non-membres des professions se retrouvent dans une même unité de négociation.

En examinant le fondement professionnel donné aux unités de négociation, j'ai constaté que la protection des droits de la profession sont, dans une grande mesure, fonction du nombre de personnes en cause. Il est certes légitime de protéger les intérêts particuliers d'une profession dont les membres organisés au sein de l'entreprise sont assez nombreux, mais il faut veiller à ce qu'il n'en résulte pas une prolifération effrénée d'unités de négociation, ou l'impossibilité d'engager des négociations lorsqu'il s'agit d'un petit nombre.

Il est intéressant de noter que les deux provinces, le Québec et la Saskatchewan, qui accordent aux membres de toutes professions tous les droits de négociation collective, ont adopté, en ce qui concerne la composition de l'unité de négociation, des dispositions différentes. Alors que le Québec les limite à des unités de négociation composées exclusivement de membres de la même profession, la Saskatchewan leur donne le droit, quand la majorité en décide ainsi, de s'affilier à une unité de négociation ouverte à tous, de s'en exclure, ou de former, aux fins de négociations collectives, leur propre unité.

Etant donné les conditions d'emploi différentes et changeantes des membres des professions, j'estime que le régime de la Saskatchewan a l'avantage de la souplesse. Il leur laisse le choix en ce qui concerne la composition de leurs unités de négociation, sous réserve toutefois de l'approbation de la Commission des relations du travail. J'estime qu'il faut éviter dans les lois toute rigidité, que ce soit celle de limiter l'unité de négociation aux membres d'une seule profession ou celle d'imposer à une profession, contre son gré, des unités de négociation qui englobent plusieurs professions ou comprennent toutes les catégories de travailleurs.

Le second critère d'admissibilité à une unité de négociation est la qualité d'employé. Etablir une ligne de démarcation entre fonctions d'exécutant et fonctions de gestion comporte des problèmes plus graves pour les membres des professions que pour la masse des autres travailleurs que visait initialement la législation canadienne du travail. A cause des responsabilités inhérentes à l'exercice de bien des professions, une proportion relativement importante de leurs membres salariés ne relèvent pas de la définition du mot "employé" et par conséquent ne jouissent pas des droits de négociation collective que confère la législation du travail actuelle. Et pendant qu'ils prétendent qu'une définition rigide de la qualité d'employé réduit l'importance de leur unité de négociation et affaiblit leur pouvoir de négociation, les porte-parole de la direction, de leur côté, font ressortir les conflits d'intérêts qui se produiraient si les membres des professions qui exercent des fonctions de surveillance se trouvaient du même côté de la table de négociation que les travailleurs.

La difficulté est de garantir à une catégorie particulière de travailleurs certains droits fondamentaux d'association sans nuire outre mesure à



la division d'autorité sur laquelle s'appuie l'administration d'une grande entreprise. De toute évidence, il faut maintenir une certaine ligne de démarcation entre cadres et subordonnés quand il s'agit de définir les unités de négociation, mais une définition plus souple de ce qu'est "l'employé" permettrait d'établir cette ligne à un niveau plus élevé de la hiérarchie qu'actuellement.

On a exprimé l'avis qu'une ligne de démarcation logique serait d'exclure de l'unité de négociation au moins ceux qui exercent des fonctions de gestion ou de surveillance susceptibles d'influencer l'embauchage, le renvoi, l'avancement ou la discipline—en d'autres termes, les possibilités de carrière—d'autres membres des professions. Cependant, dans la mesure où cela implique l'octroi des droits de la négociation collective (au sein d'unités de négociation distinctes) à des gens de profession qui exercent des fonctions de surveillance sur d'autres catégories, en d'autres termes, à l'établissement d'un syndicalisme de "cadres", il faudrait sinon une véritable refonte de la législation du travail actuelle, du moins une interprétation très souple de cette législation. C'est à cause des restrictions que comporte la législation du travail actuelle, particulièrement en ce qui a trait à la définition des unités de négociation appropriées, que certains partisans de la participation à la négociation collective des travailleurs membres des professions préconisent un cadre juridique distinct.

La structure juridique de la négociation collective chez les travailleurs faisant partie des professions

Du fait de la division des pouvoirs que la Constitution établit dans notre régime fédéral, il n'existe au Canada aucune uniformité dans les lois relatives aux droits de la négociation collective des travailleurs de cette

catégorie mais, à l'exception de celles du Québec et de la Saskatchewan, les lois générales sur le travail sont assez semblables en ce qui concerne leur exclusion.

Les partisans de l'octroi des droits de la négociation collective aux membres des professions proposent un choix de trois solutions:

- 1) une loi distincte pour chaque profession;
- 2) une loi distincte s'appliquant à toutes les professions;
- 3) l'inclusion des travailleurs membres des professions dans la législation du travail général, après modification appropriée de cette législation.

La prolifération des lois et les chassés-croisés qui pourraient se produire rendent, à mon avis, irréalisable le projet d'une loi de la négociation collective pour chaque profession. Une loi sur la négociation collective qui s'appliquerait à toutes les professions présenterait moins de complications. Reste à savoir, cependant, si ces travailleurs représentent un groupe à ce point différent et ont des besoins si particuliers qu'il faille leur conférer un statut distinct pour la négociation collective. Une législation du travail général, qui comporterait certaines dispositions spéciales s'appliquant aux membres des professions (notamment le droit de ne pas participer à la négociation collective, ou d'y participer en tant que groupe distinct) pourrait suffire. Etant donné les divergences d'intérêts et l'évolution des attitudes au sein de ce secteur, la meilleure solution serait à mon avis, d'avoir des lois souples plutôt que des lois distinctes. En outre, du fait de la différence des conditions d'emploi d'un groupe par rapport à un autre, et même chez des membres de la même profession, il me semble qu'il faut absolument accorder aux commissions des relations du travail des pouvoirs discrétionnaires considérables, surtout en matière de détermination des unités

de négociation. Cela nous mène à un autre problème: la composition de ces commissions.

Il est évident que la composition des commissions de relations du travail n'a pas suivi l'évolution qui, depuis quelques décennies, se produit dans le caractère de la main-d'oeuvre, surtout en ce qui concerne le nombre important de membres des professions qu'intéresse la négociation collective ou qui y participent. On a bien avancé de puissants arguments en faveur de leur représentation soit au sein des commissions qui existent déjà, soit dans des commissions distinctes, mais le caractère hétérogène et la diversité des intérêts des différents groupes de professions rendraient difficile le choix des représentants. On pourrait envisager de créer des commissions de caractère public qui, en évitant la dichotomie travail-patronat de la composition actuelle, élimineraient le problème de rivalité intersyndicale au sein des commissions existantes et répondraient aux besoins des groupes visés dans la présente étude.

Dans l'étude d'une structure juridique de la négociation collective chez les membres des professions, je me suis surtout attaché aux problèmes de ceux qui, du fait de leur statut de travailleurs salariés, pourraient bien rentrer dans le cadre de la législation du travail. Mais avec l'avènement de vastes programmes d'assurance-santé, les autorités gouvernementales de tous ordres seront appelées bientôt à négocier des salaires et des conditions de travail avec un groupe important de membres indépendants d'une profession à laquelle ne s'appliquent pas les lois sur le travail. Il serait peut-être bon de prévoir un cadre juridique pour la réglementation de telles négociations, peut-être en insérant dans la législation sociale même une disposition visant la négociation collective.



## Protection du statut professionnel

A cause du caractère particulier du mandat confié à l'Equipe spécialisée qui a commandité la présente étude, ce résumé porte plus directement sur l'aspect politique du problème. Cependant, il y a des problèmes qui n'intéressent pas directement les autorités publiques, mais qui ont la plus grande importance pour les parties à la négociation. C'est par la négociation qu'il faudra en trouver la solution. En voici quelques exemples.

Lorsque des travailleurs membres des professions et leurs employeurs entrent en rapport pour négocier collectivement, les questions soulevées comprennent la rémunération et les avantages sociaux, qui forment le gros des préoccupations des autres catégories, mais aussi d'autres questions qui vont bien au delà de ces considérations. Voici les facteurs qui viennent compliquer la négociation collective quand il s'agit des besoins propres aux travailleurs membres des professions:

- 1) Le conflit entre les prérogatives des membres des professions et les droits de la direction;
- 2) la possibilité de tenir compte, dans le cadre d'une convention collective, du rendement individuel.

Ce ne sont pas toutes les revendications des professionnels salariés qui menacent les droits de la direction. Par exemple, les dispositions relatives à l'éducation permanente, aux congés d'étude et aux frais d'assistance à des congrès professionnels ont pu être traitées comme de simples postes de dépenses. D'autres revendications, cependant, portent plutôt sur des normes que sur des questions pécuniaires. La participation des travailleurs aux décisions est, par définition, une revendication qui porterait atteinte aux prérogatives et droits discrétionnaires de la direction.

Certaines revendications relatives aux normes formulées par les infirmières et les ingénieurs, par exemple, visaient la protection de leur statut contre les incursions des groupes paraprofessionnels: aides-infirmières, travailleurs spécialisés. D'autres se rapportent à leur droit de réglementer les conditions et les normes de leur travail. C'est ainsi que nous voyons les enseignants réclamer le droit de participer aux décisions relatives à l'établissement des programmes d'étude, aux dimensions des salles de classe, aux méthodes disciplinaires, tandis que les infirmières voulaient avoir voix au chapitre en ce qui concerne le nombre de malades, le personnel de soutien et que les ingénieurs réclamaient non seulement le droit de signer leur propre travail mais—le nec plus ultra de la protection—celui de ne pas apposer leur signature aux documents qui ne sont pas à la hauteur des normes de leur profession. Les revendications des enseignants et des infirmières en particulier, comme la grève des radiologues au Québec l'an dernier, ont démontré que les réclamations normatives des travailleurs professionnels se prêtent souvent moins à des compromis de l'une ou l'autre des parties à la négociation que les questions pécuniaires qui les accompagnent. Comme une des parties est de plus en plus convaincue que la participation aux décisions est une prérogative essentielle du statut professionnel et que l'autre partie résiste énergiquement à toute atteinte portée aux droits discrétionnaires de la direction, il est souvent arrivé récemment que des négociations relatives à des questions normatives ont abouti à une impasse.

Le problème de la reconnaissance des différences individuelles se présentera toujours quand un grand nombre de personnes sont employées ensemble, avec ou sans négociation collective, mais ce que craignent surtout certains des travailleurs c'est d'être bloqués dans des catégories si les échelles de rémunération sont fixées dans les conventions collectives. L'Ontario Steering

Committee on Professional Negotiations a proposé comme solution à ce problème l'établissement de contrats individuels dans le cadre d'une convention collective fondamentale. Cette solution permettrait, théoriquement tout au moins, des variations considérables autour de la norme, pour correspondre aux aptitudes et au rendement individuels.

En principe, il est souhaitable que les conventions visant les professionnels salariés tiennent compte du mérite individuel, mais il est à remarquer que cette question n'a pas la même importance pour tous les groupes. En ce qui concerne la majorité de ceux qui sont employés dans de grandes entreprises (par exemple les ingénieurs, les enseignants, les infirmières), on a généralement considéré comme acceptable une politique de détermination de la rémunération fondée sur l'ancienneté et les diplômes universitaires associée à une méthode d'évaluation du rendement aux fins d'avancement. Dans d'autres secteurs, comme celui des chercheurs scientifiques, il faut tenir compte davantage de l'apport de l'individu au travail.

Quand on admet que les différences de rendement des travailleurs de cette catégorie influenceront sur la rémunération et l'évolution de la carrière, la méthode d'évaluation du rendement devient elle-même l'objet de discussions. Au cours de la recherche sur les différents groupes de la catégorie en question, on a constaté qu'il existe différentes méthodes d'évaluation du rendement, mais aucun des groupes ne prétend avoir découvert une solution idéale à ce problème. Après tout, les négociations collectives pour ce groupe en sont à leurs débuts. On doit s'attendre à des tâtonnements lors des négociations de conventions. Il est à souhaiter que l'attitude gouvernementale fera preuve d'une grande souplesse.



# NOTES









OCT 19 1988

**PLEASE DO NOT REMOVE  
CARDS OR SLIPS FROM THIS POCKET**

---

**UNIVERSITY OF TORONTO LIBRARY**

---



